

THE NATIONAL ARCHIVES  
FEDERAL REGISTER  
OF THE UNITED STATES  
1934  
VOLUME 12 NUMBER 61

Washington, Thursday, March 27, 1947

TITLE 7—AGRICULTURE

Chapter XI—Production and Marketing Administration (War Food Distribution Orders)

[W. F. O. 15, As Amended, Termination]

PART 1401—DAIRY PRODUCTS

CHEDDAR CHEESE AND PROCESS CHEDDAR CHEESE

War Food Order No. 15, as amended (11 F. R. 4778, 5105, 6271, 11446, 11985) and all war food orders pursuant thereto<sup>1</sup> are hereby terminated effective as of 12:01 a. m., e. s. t., March 24, 1947.

With respect to violations, rights accrued, liabilities incurred, or appeals taken under the aforesaid war food orders, prior to the effective time of the provisions hereof, the provisions of said war food orders, in effect prior to the effective time hereof, shall be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, liability, or appeal.

(E. O. 9280, Dec. 5, 1942, 3 CFR Cum. Supp., E. O. 9577, June 29, 1945, 3 CFR 1945 Supp.)

Issued this 21st day of March, 1947.

[SEAL] CLINTON P. ANDERSON,  
Secretary of Agriculture.

[F. R. Doc. 47-2850; Filed, Mar. 26, 1947;  
— 8:53 a. m.]

TITLE 5—ADMINISTRATIVE  
PERSONNEL

Chapter I—Civil Service Commission

PART 27—TEMPORARY CIVIL SERVICE  
REGULATIONS

CLASSIFICATION OF SERVICE; EXCEPTED  
EMPLOYEES

In the FEDERAL REGISTER of February 25, 1947, Chapter I was revised and certain parts, including Part 27, were revoked effective May 1, 1947 (12 F. R. 1270). This amendment will be effective

<sup>1</sup> WFO 15.1 to WFO 15.20, as amended, inclusive.

tive during the period intervening before May 1.

Section 27.2 (f) (1) is amended to read as follows:

§ 27.2 Classification of the service.

(f) Excepted employees; when classified. (1) That he has rendered six months of satisfactory active service in such position or in the civilian Executive branch of the Federal Government immediately prior to the effective date of the change in status of the position, and continues to serve in such position for sixty days thereafter: *Provided further*, That leave without pay during this period shall not prevent classification of the incumbent of a position brought into the classified service when such leave without pay is granted (i) for educational purposes under the Servicemen's Readjustment Act of 1944 or (ii) because of personal illness of the employee (including maternity leave) after all sick leave has been exhausted.

(E. O. 9691, Feb. 4, 1946, 11 F. R. 1381)

[SEAL] UNITED STATES CIVIL SERVICE  
COMMISSION,  
H. B. MITCHELL,  
President.

[F. R. Doc. 47-2346; Filed, Mar. 26, 1947;  
8:53 a. m.]

TITLE 8—ALIENS AND  
NATIONALITY

Chapter III—Office of Philippine Alien  
Property Administration

PART 600—ORGANIZATION AND DELEGATIONS  
OF FINAL AUTHORITY

- Sec.  
600.1 Central and field organization.  
600.2 Sales program.  
600.3 Patent, trademark, and copyright programs.  
600.4 Delegation to the Philippine Alien Property Administrator.  
600.5 Delegation to the Deputy Philippine Alien Property Administrator.  
600.6 Delegation to Vested Property Claims Committee.  
600.7 Prohibition of transactions, and appointments of agents and delegates.

(Continued on p. 2009)

CONTENTS

	Page
Agriculture Department	
Rules and regulations:	
Cheese, cheddar, and process cheddar (WFO 15, Termination)	2007
Alien Property, Office of	
Notices:	
Vesting orders, etc..	
Katayama, Tokizo, and Kumachi Takenaga	2039
Reil, Dietrich, et al.	2041
Reil, Fred	2041
Richter, Carl H.	2039
Rohde, Arthur	2040
Schmid, Jacob	2041
Szendzina, John	2040
Zimmerman, William	2040
Civil Aeronautics, Administration	
Rules and regulations:	
Certificates issued by Administrator; rules of practice governing proceedings to alter, amend, or modify	2014
Civil Service Commission	
Rules and regulations:	
Temporary regulations; classification of service	2037
Civilian Production Administration	
Notices:	
Consent orders:	
Beach Drive, Inc.	2043
Pinno, Anthony M.	2043
Roseburg Lumber Co.	2043
Testa, Joseph M., et al.	2044
Rules and regulations:	
Suspension orders:	
Landas, Ralph	2028
Niemczewski, Frank, and Maurice La Belle	2027
Coast Guard	
Notices:	
Approval of equipment (Corr.)	2039
Commodity Exchange Authority	
Rules and regulations:	
Rules of practice applicable to proceedings before Commodity Exchange Commission	2015
Federal Power Commission	
Proposed rule making:	
Natural gas companies; determination of service areas	2038



Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Division of the Federal Register, the National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1937.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$1.50 per month or \$15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

## CONTENTS—Continued

<b>Federal Savings and Loan Insurance Corporation</b>	Page
Rules and regulations:	
Organization; delegation of authority with respect to procurement.....	2027
<b>Housing Expediter, Office of</b>	
Rules and regulations:	
Housing permits; maximum floor area.....	2027
<b>Interior Department</b>	
See also Land Management, Bureau of; Mines Bureau; National Park Service; Southwestern Power Administration.	
Rules and regulations:	
Delegations of authority; Bureau of Mines and Southwestern Power Administration....	2036
<b>Interstate Commerce Commission</b>	
Notices:	
Reconsignment:	
Apples at Minneapolis, Minn.	2043
Potatoes at Philadelphia, Pa. (2 documents).....	2042
Rules and regulations:	
Car service:	
Cars of citrus, salting of ice...	2037
Cars, stock, for petroleum products containers.....	2037
<b>Land Management, Bureau of</b>	
Notices:	
Alaska, shore space restoration; Arizona, order providing for opening of public lands.....	2042
Rules and regulations:	
Alaska; revocation of withdrawal of public lands in aid of definite location and construction of Trans-Canadian Alaskan Railway.....	2037

## RULES AND REGULATIONS

### CONTENTS—Continued

<b>Land Management, Bureau of—Continued</b>	Page
Rules and regulations—Continued	
Arizona; creation and modification of grazing districts.....	2037
<b>Mines Bureau</b>	
Rules and regulations:	
Organization; delegation of authority concerning drilling contracts.....	2027
<b>National Park Service</b>	
Rules and regulations:	
General; grazing and private operations.....	2036
<b>Panama Canal</b>	
Rules and regulations:	
Gatun Spillway, fishing.....	2036
<b>Philippine Alien Property Administration, Office of</b>	
Rules and regulations:	
Organization and delegations of authority.....	2007
Records, availability.....	2013
Rules of procedure.....	2010
<b>Post Office Department</b>	
Rules and regulations:	
Postal service, international; service to Denmark.....	2036
<b>Railroad Retirement Board</b>	
Rules and regulations:	
Insurance annuities and lump sums for survivors.....	2017
<b>Securities and Exchange Commission</b>	
Notices:	
Hearings, etc..	
Interstate Power Co. of Wisconsin and Interstate Power Co.....	2045
New England Gas and Electric Assn.....	2044
United Light and Power Co. et al.....	2045
Rules and regulations:	
Financial statements, form and content; schedules to be filed..	2017
<b>Southwestern Power Administration</b>	
Rules and regulations:	
Organization and procedure; delegation of authority concerning construction contracts.....	2017
<b>War Assets Administration</b>	
Rules and regulations:	
Surplus real property.....	2028

## CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such in parentheses.

<b>Title 5—Administrative Personnel</b>	Page
Chapter I—Civil Service Commission:	
Part 27—Temporary civil service regulations.....	2007

## CODIFICATION GUIDE—Con.

<b>Title 7—Agriculture</b>	Page
Chapter XI—Production and Marketing Administration (War Food Distribution Orders)	
Part 1401—Dairy products.....	2007
<b>Title 8—Aliens and Nationality</b>	
Chapter III—Office of Philippine Alien Property Administration:	
Part 600—Organization and delegations of final authority..	2007
Part 601—Rules of procedure..	2010
Part 621—Availability of records.....	2013
<b>Title 14—Civil Aviation</b>	
Chapter II—Administrator of Civil Aeronautics, Department of Commerce:	
Part 652—Rules of practice governing proceedings under Section 609 of the Civil Aeronautics Act of 1938, as amended, to alter, amend, or modify certificates issued by the Administrator.....	2014
<b>Title 17—Commodity and Securities Exchanges</b>	
Chapter I—Commodity Exchange Authority (including Commodity Exchange Commission), Department of Agriculture:	
Part 0—Rules of practice.....	2015
Chapter II—Securities and Exchange Commission:	
Part 210—Form and content of financial statements, Securities Act of 1933, Securities Exchange Act of 1934 and Investment Company Act of 1940.....	2017
<b>Title 18—Conservation of Power</b>	
Chapter I—Federal Power Commission:	
Part 167—Enlargement or extension of facilities to supply increased market demands in service areas of natural gas companies (proposed).....	2038
Chapter IV—Southwestern Power Administration, Department of the Interior:	
Part 500—Organization and procedure.....	2017
<b>Title 20—Employees' Benefits</b>	
Chapter II—Railroad Retirement Board:	
Part 237—Insurance annuities and lump sums for survivors..	2017
<b>Title 24—Housing Credit</b>	
Chapter III—Federal Savings and Loan Insurance Corporation:	
Part 0300—Organization, procedure, and substantive rules and regulations.....	2027
Chapter VIII—Office of Housing Expediter:	
Part 806—Housing permit regulation under Veterans' Emergency Housing Act of 1946....	2027
<b>Title 30—Mineral Resources</b>	
Chapter I—Bureau of Mines, Department of the Interior:	
Part 01—Organization.....	2027

**CODIFICATION GUIDE—Con.**

<b>Title 32—National Defense</b>	Page
Chapter IX—Office of Temporary Controls, Civilian Production Administration:	
Part 1010—Suspension orders (2 documents) .....	2027, 2028
Chapter XXIII—War Assets Administration:	
Part 8305—Surplus real property .....	2028
<b>Title 35—Panama Canal</b>	
Chapter I—Canal Zone Regulations:	
Part 8—Carrying and keeping of arms; hunting; fishing .....	2036
<b>Title 36—Parks and Forests</b>	
Chapter I—National Park Service, Department of the Interior:	
Part 2—General rules and regulations .....	2036
<b>Title 39—Postal Service</b>	
Chapter I—Post Office Department:	
Part 21—International postal service .....	2036
<b>Title 43—Public Lands: Interior</b>	
Subtitle A—Office of the Secretary of the Interior:	
Part 4—Delegations of authority .....	2036
Chapter I—Bureau of Land Management, Department of the Interior:	
Part 162—List of orders creating and modifying grazing districts .....	2037
Appendix—Public land orders: 32 <sup>1</sup> .....	2037
361 .....	2037
<b>Title 49—Transportation and Railroads</b>	
Chapter I—Interstate Commerce Commission:	
Part 95—Car service (2 documents) .....	2037

<sup>1</sup>P. L. O. 361.

Sec.	
600.8	Delegation of authority to certify documents.
600.9	Delegation of authority to make records available.
600.10	Delegation to Comptroller.
600.11	Ratification of delegations and appointments made by Philippine Alien Property Administrator's Predecessors.

**AUTHORITY:** §§ 600.1 to 600.11, inclusive, issued under secs. 3, 12, Pub. Law 404, 79th Cong., 60 Stat. 238, 244; E. O. 9818, Jan. 7, 1947, 12 F. R. 133.

§ 600.1 *Central and field organization*—(a) *Direction.* The Philippine Alien Property Administration, Office for Emergency Management of the Executive Office of the President, is under the direction of the Philippine Alien Property Administrator who is appointed by, and is responsible directly to the President in the exercise of authority granted to the President by the Trading with the Enemy Act, as amended, and the Philippine Property Act, 1946. The President's authority under these acts has been delegated to the Philip-

pine Alien Property Administrator by and to the extent set forth in the Executive orders listed in § 600.4. The Administrator is assisted by a Deputy Administrator whose authority is set out in § 600.5.

(b) *Division.* The administration is composed of the following divisions and offices with functions as indicated:

(1) *Office of the Philippine Alien Property Administrator:* The Administrator is responsible for the exercise of all powers and performance of all duties delegated by the President to the Philippine Alien Property Administrator. The Deputy Philippine Alien Property Administrator is directly responsible to the Administrator and when the Administrator is absent exercises all powers and performs all duties delegated to the Administrator.

(2) *Executive Committee* (composed of the Philippine Alien Property Administrator, the Deputy Philippine Alien Property Administrator, and such other staff officers as are named by the Administrator) Serves in an advisory capacity to the Administrator in determination of policy and administrative actions.

(3) *Vested Property Claims Committee:* Conducts hearings and examines evidence on claims filed with the administration and determines their disposition, subject to review by the Administrator.

(4) *Administrative Division:* Responsible for budgetary control, administrative planning and coordination of activities of service divisions; responsible for recruitment, classification, and related personnel activities; maintains personnel records; administers personnel laws and regulations; provides procurement, messenger, duplicating, and other administrative services; and maintains files and records.

(5) *Office of the General Counsel:* The General Counsel is the legal adviser to the Administrator, determining, and advising with respect to the legal policy of the administration. He passes upon legal documents and regulations, analyzes legislation and prepares legislative proposals; analyzes and disposes of litigation; represents the Administration before the Claims Committee in all matters arising from claims filed, and is a party to all hearings conducted by the Committee or Examiner and in all rehearings, reviews, and appeals.

(6) *Accounting Division:* Maintains all accounting records pertaining to vested property and administrative expenses and prepares financial reports; reviews financial data on vested and supervised business enterprises; conducts research to evaluate effectiveness of programs and assists in policy formulation; assembles statistical data on controlled properties; and prepares annual and other official reports.

(7) *Investigation Division:* Responsible for identification and establishment of proof of ownership of all enemy-owned assets.

(8) *Division of Property Management & Sales:* Supervises operations of business enterprises continuing as going concerns and conducts sales of the vested

interests; supervises liquidation of enterprises not continued as going concerns; manages and sells real estate, mortgages, and other vested property; obtains possession of vested properties, and administers all property not assigned to other divisions.

(9) *Office of Executive Officer, Washington, D. C.* Provides liaison with other government agencies; handles general correspondence of the Washington office; processes formal orders and documents, and coordinates policies and practices of the Administration with the Office of Alien Property, Department of Justice.

(10) *Administrative Office, Davao City, Mindanao, Philippine Islands:* Responsible for administration of all functions in that office.

(c) *Location of offices.* The Philippine Alien Property Administration maintains offices at the following locations:

(1) 121 Dasmariñas St., Manila, Philippines, APO 707 c/o P. M., San Francisco, Calif.

(2) San Pedro Street, Davao City, Mindanao, Philippines.

(3) Room 209, Willard Building, Washington 25, D. C.

(d) *Requests and inquiries.* Requests and inquiries may be addressed initially to the Administrator, Philippine Alien Property Administration, 121 Dasmariñas Street, Manila, Philippine Islands. Internal divisions of the office should not be addressed in the first instance except where otherwise provided in this part. Correspondence from the Administration includes reference symbols, use of which expedites the handling of reply. Persons who are located in the United States may address the Executive Officer, Philippine Alien Property Administration, Room 209, Willard Building, Washington 25, D. C., or if located near Davao, may address the Administrative Officer, Philippine Alien Property Administration, San Pedro St., Davao City, Mindanao, Philippine Islands.

§ 600.2 *Sales program.* Vested properties are offered for sale by the administration at various times and places. Notice of sale is given by publication in newspapers and by mail to persons on a mailing list maintained by the Administrative Division. Information concerning the program is available upon request to the Administrator, Philippine Alien Property Administration, Manila, Philippine Islands. Persons may be placed on the mailing list by request. See also § 601.4.

§ 600.3 *Patent, trademark, and copyright programs.* Information concerning vested interests in trademarks, copyrights, commercial prints and labels is available upon request to the General Counsel, Philippine Alien Property Administration, Manila, Philippine Islands.

§ 600.4 *Delegation to the Philippine Alien Property Administrator.* Authority has been delegated to the Philippine Alien Property Administrator by the following Executive orders of the President:

(a) Executive Order 9318 of January 7, 1947 (12 F. R. 133), superseding Executive Order 9789 of October 17, 1946 (11 F. R. 11931).

§ 600.5 *Delegation to Deputy Philippine Alien Property Administrator* The Deputy Philippine Alien Property Administrator, in the absence of the Philippine Alien Property Administrator, or in the event of his inability to act, may exercise, to the extent permitted by law, all of the powers and authority of the Administrator.

§ 600.6 *Delegation to Vested Property Claims Committee.* See § 601.1.

§ 600.7 *Prohibition of transactions and appointments of agents and delegates.* See § 611.3.

§ 600.8 *Delegation of authority to certify documents.* The Administrative Officer, the Assistant Administrative Officer, the Administrative Officer, Davao City, Mindanao, and the Executive Officer, Washington, D. C., severally, are authorized to exercise the power vested in the Philippine Alien Property Administrator to authenticate, certify and attest copies of any books, records, papers or other documents in the official custody of the Philippine Alien Property Administrator, and to subscribe the Philippine Alien Property Administrator's name to such certificates in his behalf.

§ 600.9 *Delegation of authority to make records available.* Each Division Chief of the Philippine Alien Property Administration, in the conduct of affairs of his Division, is authorized to make official records available to applicants in accordance with § 621.2. Applications for disclosure of records in connection with litigation, and subpoenas, will be submitted to the Administrator by the Division Chief having jurisdiction.

§ 600.10 *Delegation to Comptroller* The Comptroller is authorized to, but not limited to make demand for rents, annuities, accretions, and royalty payments on vested property and on vested contracts.

§ 600.11 *Ratification of delegations and appointments made by Philippine Alien Property Administrator's predecessors.* (a) (1) The appointment and designation of all employees, appointees, delegates, designees, agents, supervisors, proxies, attorneys, representatives and other personnel whose services were transferred to the Philippine Alien Property Administration, or in the Manila or Davao City offices of the Office of Alien Property, Department of Justice, together with all powers, authority, functions and duties conferred, granted or delegated by virtue of any certificate of appointment, general order, proxy, letter or other instrument of appointment or delegation by or under the authority of Donald C. Cook, Office of Alien Property, and

(2) All certificates of appointment, general orders, special orders, orders, regulations, licenses, instructions, directions, delegations, designations, authorizations and forms executed, issued or promulgated by or under the authority of Leo T. Crowley, or James E. Markham, severally, as Alien Property Custodian, or of Donald C. Cook, Office of Alien Property, Department of Justice.

are, except as hereinafter indicated, hereby affirmed, ratified and continued in effect in so far as they affect vested property in the Philippine Islands according to their terms until revoked, superseded or terminated by, or by authority of, the Philippine Alien Property Administrator.

(b) Any instrument which might lawfully be issued by or under the authority of the Philippine Alien Property Administrator shall not be deemed invalid for the reason that it contains the printed, or otherwise stamped or affixed names of the predecessors in title to the Philippine Alien Property Administrator, namely, "Leo T. Crowley" "James E. Markham" or "Donald C. Cook" but shall be construed as though it contained the name "James McL. Henderson" Administrator, unless the context requires otherwise.

#### PART 601—RULES OF PROCEDURE

- |        |   |
|--------|---|
| Sec.   |   |
| 601.1  | Receipt and disposition of claims.  |
| 601.2  | Rules of Vested Property Claims Committee.  |
| 601.3  | Service of process on persons within enemy territory.   |
| 601.4  | Sales of property by the Philippine Alien Property Administrator.   |
| 601.5  | Report of persons acting under judicial supervision.  |
| 601.6  | Report of property owned by persons to be repatriated.  |
| 601.7  | Report of property of Germany and Japan and any national thereof.   |
| 601.8  | Limitations on representative activities by former employees of Philippine Alien Property Administration. |
| 601.9  | Forms.  |
| 601.10 | Public participation in substantive rule making.  |

AUTHORITY: §§ 601.1 to 601.10, inclusive, issued under secs. 3, 12, Pub. Law 404, 79th Cong., 60 Stat. 238, 244; E. O. 9818, Jan. 7, 1947, 12 F. R. 133.

§ 601.1 *Receipt and disposition of claims.* (a) Any person asserting a right to relief from or against the Philippine Alien Property Administrator because of any vesting, supervisory or other order of the Philippine Alien Property Administrator, shall file with the Philippine Alien Property Administration, Manila, P. I., a notice of claim. Such notice shall be filed on the following prescribed forms in conformity with the instructions set forth therein:

Form PAPA-1 (Notice of Claim for return of vested property).

Form PAPA-2 (Notice of Claim for payment of debt.)

*Provided*, That by consent of the Administrator, on a showing of inapplicability of the above prescribed forms, notice of the claim may be filed by informal written recital or other forms. Claims shall be filed within two years from the seizure by or vesting in the Philippine Alien Property Administrator of the property or interest in respect of which the claim is made, or by August 8, 1948, whichever date is later. With respect to debt claims, the Philippine Alien Property Administration may, pursuant to section 34 (a) of the Trading with the Enemy Act, as amended, fix an earlier date or dates

after which the filing of debt claims with respect to any or all debtors shall be barred.

(b) All claims shall be determined on behalf of the Administrator of the Philippine Alien Property Administration by the Vested Property Claims Committee which is composed of three members. The Committee will appoint experts as advisors and consultants. Except as provided in this part, the Committee shall exercise all powers of the Administrator of the Philippine Alien Property Administration appropriate to the hearing, consideration and disposition of claims, including the power to subpoena witnesses, to compel the production of documents for use as evidence, to administer oaths to witnesses, and to promulgate rules of practice and procedure not inconsistent with the regulations in this part. Any two members of the Committee shall constitute a quorum for the purpose of any action on any claim.

(c) Each member of the Claims Committee shall be appointed an Examiner pursuant to section 11 of the Administrative Procedure Act (60 Stat. 237). If the work of the Committee shall require additional examiners they shall be appointed and shall be members of the staff of the Claims Committee. The members of the Committee and its staff shall not engage in any investigatory or adversary activities and shall perform no duties inconsistent with their duties and responsibilities as Examiners, members of the Committee or members of the Committee's staff.

(d) Any person appearing in any proceeding before the Committee or an Examiner may be represented by counsel or otherwise. The claimant and the General Counsel, or assistant designated by him, shall be deemed necessary parties to any hearing on a claim. Any other person who asserts that he will be affected by grant or denial of the claim shall, on appropriate application to the Committee, be designated by the Committee as an additional party. *Provided*, That the Committee may in its discretion reject any such application which it deems frivolous.

(e) The Committee shall not determine any claim (other than a claim which is the subject of a summary proceeding for allowance as provided in paragraph (1) of this section) except after hearing on appropriate notice to all parties, but any party may waive hearing or notice of hearing, and on consent of all parties any claim may be submitted to the Committee on a stipulated record. Hearings may be held at the discretion of the Committee (1) before the Committee as a whole or a quorum thereof, (2) before a Committee member assigned as an examiner, or (3) before an examiner on the staff of the Committee assigned to the particular case. All assignments of examiners shall be made by the Committee which shall endeavor to make assignments to examiners in rotation so far as practicable. Any examiner assigned to the hearing of a claim shall act for the purpose of administering oaths, taking testimony, ruling on objections to the admission of evidence and per-

forming any other functions of the Committee other than the final consideration and determination of claims.

(f) A record shall be kept of all hearings before the Committee or before an Examiner including a transcript of testimony and exhibits together with all papers and requests filed in the proceeding. When the hearing has been conducted before an Examiner (either a member of the Committee, or another examiner on the Committee's staff) the record shall be transmitted to the Committee together with the Examiner's recommended determination of all issues of fact and law necessary to the disposition of the claim. Before submitting the recommended determination to the Committee, the examiner shall afford to the parties appropriate opportunity to submit proposed recommended determinations and briefs thereon. The recommended determination of the examiner shall be made available to the parties and shall become a part of the record. The parties shall be given appropriate opportunity to submit exceptions, proposals for modification and briefs and oral argument thereon before final determination by the Committee. When a hearing has been conducted before the Committee or a quorum thereof, the Committee shall issue a tentative determination. Before issuing tentative determination, the Committee shall afford to the parties appropriate opportunity to submit proposed tentative determinations and briefs thereon. The tentative determination shall be made available to the parties and shall become a part of the record. The parties shall be given appropriate opportunity to submit exceptions, proposals for modification and briefs and oral argument thereon before final determination by the Committee.

(g) The final determination of the Committee shall be effectuated by the Philippine Alien Property Administration unless the Administrator undertakes a personal review thereof. Application by any party for such review shall be made within twenty days after receipt by him of the final determination of the Committee or within such further time as may be allowed by the Committee or the Administrator. If the Administrator undertakes such review, he will afford all parties opportunity for submission of briefs to him and, in his discretion, for oral argument before him. Upon consideration of the record, the final determination of the Committee, and any such briefs and argument, he will make a personal determination adopting, modifying, reversing, remanding, or otherwise disposing of the Committee's determination and will cause his personal determination to be transmitted to the parties and be effectuated.

(h) Each party, on submitting any paper under paragraphs (f) and (g) of this section, shall transmit copies thereof to every other party. Oral argument shall be held only upon notice to all parties.

(i) The General Counsel of the Philippine Alien Property Administration may, in his discretion, initiate a summary

proceeding for allowance of any claim which he deems clearly entitled to allowance that the public interest does not require contest thereof nor hearing thereon, by submitting to the Committee a recommendation for allowance, stating the facts considered in making the recommendation. The Committee shall thereupon make its own review of the claim and the recommendation and shall cause to be made any further investigation which it deems proper, but need not issue any notice of hearing nor issue any recommendation or tentative determination nor transmit to the claimant any copy of any document. If the Committee concurs in the recommendation, it shall issue a final determination allowing the claim (which may be in the form of an approval of the recommendation) and such determination will be effectuated by the Philippine Alien Property Administration. If the Committee does not concur in the recommendation or if an application for hearing is timely filed, the Committee shall set the claim down for hearing in accordance with paragraph (e) of this section, and neither the recommendation for summary allowance nor its dismissal shall be considered in the hearing.

(j) At least thirty days before the issuance of a final determination allowing a claim for the return of property, the Committee shall cause to be published, in a newspaper of general circulation in the City of Manila, P. I., and when necessary in the Federal Register, a notice of intention to make such return, specifying the person to whom such return is to be made and where the properties, interest or proceeds to be returned is located. If, within thirty days, no response to such notice is received indicating any reason for withholding return of the vested property, the final determination may then be issued and effectuated by the Philippine Alien Property Administration.

(k) The Committee may, in its discretion, allow any claim to be withdrawn upon application of the claimant. The Committee may, on its own motion or motion of the General Counsel, dismiss any claim if (1) the claimant fails to prosecute the claim or unreasonably delays such prosecution or (2) the facts alleged by the claimant do not entitle the claimant to relief under the applicable provisions of the Trading with the Enemy Act, as amended, and the Philippine Property Act of 1946. No claim shall be dismissed until thirty days after the Committee shall have given notice to the claimant of the proposed dismissal and opportunity to show cause why such dismissal shall not be effected.

§ 601.2 *Rules of Vested Property Claims Committee.* (a) All claims are listed for disposition according to the date on which they were received for filing. In scheduling claims for hearing those claims which assert an erroneous determination by the Administrator, either of nationality or of ownership, will, however, be given general preference on the Committee's calendar. Two or more claims related to the same property or presenting a common question of law or fact may, upon notice to the parties, be

consolidated by the Committee for hearing.

(b) Hearings before the Committee shall be at the time and place ordered by the Committee and for cause may be adjourned from time to time. Notice of a hearing will be served on the claimant (or the person designated by him in his notice of claim, as the case may be) by registered letter, mailed at least ten days in advance of the date of the hearing. All hearings before the Committee shall be public, except as otherwise ordered in the national interest by the Committee.

(c) Subpoenas will be issued upon request of any party to the hearing upon a showing that the proposed witness is needed and can testify to material facts at issue. Testimony at any hearing will be upon oath (or affirmation) and subject to cross-examination. The rules of evidence prevailing in courts of law and equity will not necessarily be controlling. For example, hearsay and secondary evidence may be admitted, but the Committee will give consideration to its nature in determining its weight and credibility, if any. The Committee will, however, on its own motion or on objection, exclude evidence which it deems privileged by law from disclosure, or which it deems immaterial, irrelevant, unduly repetitious, or otherwise of no probative value. On objection to rulings made during the examination of witnesses, a brief statement of grounds of objection must be made, but an automatic exception will follow if the objection is overruled by the Committee.

(d) The claimant shall be the moving party and the burden of proof on the issues tendered by the claim shall be on him and he shall proceed first at the hearing. The Committee shall, in each case, determine the time and manner of filing and exchanging tentative determinations and briefs.

(e) Any notice of claim, or other paper filed in a proceeding, may be corrected or amended, but any such correction or amendment taking place after a claim is noticed for hearing shall be by leave of the Committee. By leave of the Committee, any party who has made profert of an original exhibit may withdraw it from the record of the proceeding by substitution of a certified copy on notice to all other parties.

(f) It is the policy of the Committee to arrange prehearing conferences for the purpose of clarifying the issues, agreeing on matters of exhibits, and taking other steps related to simplification of the hearing.

§ 601.3 *Service of process on persons within enemy territory.* See § 611.4 of this chapter.

§ 601.4 *Sale of property by the Philippine Alien Property Administration.*—(a) *General sales.* Unless otherwise determined by the Philippine Alien Property Administrator, all sales by the Administrator other than those treated in paragraphs (b) and (c) of this section, shall be public sales, conducted under the procedure hereinafter set forth.

(1) *Advertising.* Each sale shall be advertised in a newspaper of general circulation in the place where the property



or a major portion thereof is located, and in such trade and other publications, if any, as the Chief of the Division conducting the sale may deem appropriate. The initial advertisement shall appear at least fifteen days before the date set for opening bids, or at such other time as in the opinion of the Chief of the Division affords to interested parties an adequate opportunity for bidding.

(2) *Information.* The Chief of the Division involved may designate one or more of the employees of the Philippine Alien Property Administration to be present at the places and times specified in the advertisement to furnish such available information as may be requested with respect to the property to be sold. Confidential information or matter which might be of benefit to competitors, or information with respect to formulae, processes, or trade secrets, will be furnished in appropriate cases only when upon direct approval of the Administrator.

(3) *Inspection.* Appropriate opportunity for inspection of the property to be sold will be afforded.

(4) *Bids.* Bids shall be submitted to the Philippine Alien Property Administrator to the appropriate office designated in the advertisement of sale. All bids shall be in writing and sealed in plain envelopes suitably marked to identify the sale in connection with which they are submitted and, until the award is made or the bids are rejected, shall constitute irrevocable offers to purchase the property. Bids will be opened in public at the hour and place, and by the person, appointed by the Chief of the Division involved, and in the presence of such bidders as may desire to attend. The absence of bidders at the time and place of the opening shall not prevent the making of the award.

(5) *Award.* Within the thirty days after the opening of bids or such lesser period as may be set forth in the terms and conditions of sale the Administrator will make the award to the highest qualified bidder or reject the bids, stating the reason therefor.

(6) *Notification.* The successful bidder will be notified in writing of the award.

(7) *Execution of documents.* All papers and documents issued in consummating such sales may be executed and delivered on behalf of the Administrator by his duly authorized representative.

(8) *Return of checks.* Where earnest money checks are required to accompany the bid, the checks shall be returned to the unsuccessful bidders together with notice of the rejection of their bids.

(9) *Methods of payment.* Unless otherwise determined by the Administrator, the sales price or any part thereof shall be paid by certified cashier's or banker's check. Each such instrument shall be made payable to the "Philippine Alien Property Administrator" and shall be delivered to a duly authorized representative of the Administrator.

(b) *The sale of property of a value determined to be not in excess of \$15,000—*

(1) *Methods of sale.* The Chief of the Division having jurisdiction thereof may,

after authorization by the Philippine Alien Property Administrator, sell at public or private sale, with or without public or other advertisement, any right, title, interest or estate the Administrator has vested in chattels, land, securities, contracts, claims, choses-in-action, or any other property whether tangible or intangible, in items, lots, or quantities having a value, determined as provided in subparagraph (2) of this paragraph, not exceeding \$15,000 for each item, lot or quantity to be sold.

(2) *Determination of value.* The Administrator will determine whether the value of any item, lot or quantity of property is not in excess of \$15,000. If the Administrator determines the value of any item, lot, or quantity of property to be an amount not exceeding \$15,000, the sale shall be made by the Chief of the Division on such terms and in such manner as the Administrator shall direct.

(3) *Execution of documents.* All papers and documents issued in consummating such sales may be executed and delivered on behalf of the Administrator by his duly authorized representative.

(4) *Methods of payment.* Unless otherwise determined by the Administrator, the sales price or any part thereof shall be paid by certified, cashier's or banker's check. Each such instrument shall be made payable to the "Philippine Alien Property Administrator" and shall be delivered to a duly authorized representative of the Administrator.

(c) *Special sales—*(1) *Types of special sales.* Sales of the following types involving property of any value whatsoever are hereby designated as "special sales":

(i) Sales pursuant to regulations, requests or instructions of any Department or Agency of the United States;

(ii) Sales to the United States or any Agency thereof;

(iii) Sales of property which is perishable, or the preservation, storage, or retention of which entails undue expense or loss;

(iv) Sales of any rights which lapse unless exercised within a limited time, including, but not limited to, rights appurtenant to the ownership of securities;

(v) Sales of securities or any commodities which are made upon public exchange under government regulations;

(vi) Sales of real estate.

(2) *Methods of special sales.* Such sales shall be made in compliance with the applicable provisions of this section governing sales of property of a value determined by the Administrator to be not in excess of \$15,000 and such other terms and conditions as the Administrator shall determine in each case.

(d) *Miscellaneous.* (1) Unless the Administrator shall otherwise direct, no person or business organization shall be qualified to bid for or purchase property if he or it is on the Proclaimed List of Certain Blocked Nationals or is not an American citizen or a Filipino citizen or is not a business enterprise controlled by an American or Filipino citizen and organized under the laws of the United States, or any State or Territory thereof or of the laws of the Republic of the Philippines.

(2) Sales by corporations, all or part of the shares of which have been vested

by the Administrator, or sales in the normal course of operation (not liquidation) of unincorporated business enterprises, the assets of or interests in which have been vested, in whole or in part, by the Administrator, shall not be subject to this section.

(3) Sales shall be made in conformity with the applicable laws and regulations of Governmental Agencies of the United States and the Republic of the Philippines.

(4) No representative of the Administrator is authorized to make any warranty or guaranty, expressed or implied, respecting or in any way concerning any property or enterprise being sold.

(5) The Administrator reserves the right to waive, change, amend or modify any or all of the regulation in this part and the terms and conditions of sale at any time; the Administrator also reserves the right to withdraw any property from sale at any time or to reject any or all bids.

*Reasons for issuance of regulations regarding sales of property by Philippine Alien Property Administration.* Under the authority of the Trading with the Enemy Act, as amended, the Philippine Property Act of 1946 and appropriate Executive orders thereunder, the Administrator, determining:

That any vested property under the jurisdiction of the Philippine Alien Property Administration, may be sold to Filipino citizens, unless there is a showing that the proposed Filipino purchaser was disloyal to the United States during the war with Japan. The reasons for selling vested property to Filipino citizens are; that they were formerly nationals of the United States; that the United States Congress and Government so intended as indicated by legislative history, particularly the approval of the sale of vested property to Filipino citizens by the act approving the budget of 1946 and by the Philippine Property Act of 1946. Moreover, it is unreasonable to exclude loyal Filipinos from purchasing the vested property all of which is located in the Republic of the Philippines. Furthermore, the sale of vested property to Filipinos will benefit the economy of the Islands, improve the present friendly relations between the two governments and is in the public interest; and

That any of the vested property may be sold to American citizens, unless the laws of the Republic of the Philippines prohibit American citizens from holding title to the property being sold; and

That in the course of the operation of the Philippine Alien Property Administration many types of property have been vested; and

That the public interest requires that such property be liquidated and sold in manners best suited to the type of property involved and at prices consistent with present price structures and

That public sales with written bids publicly opened at a designated place are in general best calculated to protect both the interests of the United States and the purchasers; and that such sales have the advantage of providing complete records of the proceedings; and that in the case of such sales by written bids the place of sale may most advantageously be determined by considerations of administrative convenience without injury to the interest of the United States or of the bidders or other interested parties; and that it is therefore not necessary in the public interest that such bids be opened at the place where the property or a major portion thereof is situated; and

That properties in lots of small value cannot usually be sold to best advantage at public sale, but are most efficiently disposed

at the time and place of the most favorable demand and upon such terms and conditions as may be necessary to secure the best market price; and that in such cases by such informal procedure unnecessary expense, delay and inconvenience may be avoided; and

That real estate may be disposed of at the most favorable prices through the medium of recognized brokers or by direct negotiations; and

That many properties may be sold at the request of other departments and agencies of the United States under regulations fully protecting the United States; and

That perishable or expendable commodities must be quickly sold in order to preserve the value of the property; and

That many goods are best disposed of in government-regulated securities and commodity markets where the rules and regular quotation of prices on the exchange offer more complete protection to the public interest than would a public sale;

for the above-stated reasons in the public interest, hereby issues § 601.4.

§ 601.5 *Report of persons acting under judicial supervision.* See § 611.6 of this chapter.

§ 601.6 *Report of property owned by persons to be repatriated.* See § 611.7 of this chapter.

§ 601.7 *Report of property of Germany and Japan and any national thereof.* See § 611.8 of this chapter.

§ 601.8 *Limitations on representative activities by former employees of Philippine Alien Property Administration.* See § 611.10 of this chapter.

§ 601.9 *Forms.* The following forms have been authorized for use by the public and may be obtained upon request to Executive Officer, Philippine Alien Property Administration, Room 209, Willard Building, Washington 25, D. C., or at the Office of the Philippine Alien Property Administrator, Manila, P. I.

Form PAPA-1—*Notice of Claim under section 32*

Purpose: For use by persons seeking return, under sections 9 and 32 of the Trading with the Enemy Act, or property vested by the Philippine Alien Property Administration.

Contents: Claimant's name and address; claimant's agent and fees; identification and value of property claimed; characterization of claimant; characterization of owner at date of vesting; chain of title.

Form PAPA-2—*Notice of Claim for Debt Under Section 34, Public Law 671.*

Purpose: For use by persons seeking payment of debts under Section 34 of the Trading with the Enemy Act.

Contents: Claimant's name, address, and citizenship; claimant's agent and fees; identification of debtor and property; amount, nature, and date of debt.

Form PAPA-3—*Report of Persons Acting Under Judicial Supervision.*

Purpose: For use by persons acting under judicial supervision, or in any court or administrative action or proceeding, to report property or interests of designated enemy nationals.

Contents: Person reporting and capacity in which he acts; designated enemy national and nature of his interests; nature of property; interests of unknown designated nationals.

Form PAPA-4—*Report of Property of Repatriates.*

Purpose: For use in inventorying the property of persons who are to be repatriated.

Contents: Personal history of repatriate; description of all property owned; controlled or claimed by repatriate; signature of repatriate; attestation of examiner.

Form PAPA-5—*Series A, B, C, D, E, F, G and H—Report of German or Japanese Property in the Republic of the Philippines.*

Purpose: For use in reporting to the Administrator the present location and identity of property in the Republic of the Philippines which Germany or Japan, or any national thereof, has any interest.

Contents: Series A, financial securities; Series B, interests in real estate; Series C, other types of property; Series D, report of issuer of financial securities; Series E, bank's report of deposits; Series F, bank's report of safe deposit boxes; Series G, report of executors and other fiduciaries; Series H, report of insurers.

§ 601.10 *Public participation in substantive rule making—(a) Submission of written or oral views on proposed rule.* Within ten days after the Philippine Alien Property Administrator has published in the FEDERAL REGISTER and in a newspaper of general circulation in the City of Manila, P. I., notice of proposed substantive rules under authority of the Trading with the Enemy Act, as amended, and Philippine Property Act of 1946, any person may submit in writing to Executive Officer, Philippine Alien Property Administration, Room 209 Willard Building, Washington 25, D. C., or Administrator, Philippine Alien Property Administration, 121 Dasmariñas St., Manila, P. I., a statement of his views, arguments, or other data concerning the proposed rule. The statement must be submitted in duplicate, typewritten double-spaced, and must set forth the writer's interest. Any person may, within the same period, apply in writing to the Executive Officer, or Administrator, for permission to be heard orally in connection with a proposed rule, setting forth his interest and the gist of the subject-matter which he intends to present. Hearings will be allowed in the discretion of the Administrator, and will be informal.

(b) *Petitions on rules.* Any person may submit to Executive Officer, Philippine Alien Property Administration, Room 209, Willard Building, Washington, 25, D. C., or Administrator, Philippine Alien Property Administration, 121 Dasmariñas St., Manila, P. I., a petition for issuance, amendments, or repeal of a rule. The petition must be in duplicate, typewritten double-spaced, and must set forth petitioner's interest, the desired change or proposal, and supporting reasons. If the Philippine Alien Property Administrator deems the petition meritorious, appropriate action will be taken to effectuate the petitioner's proposal. If the petition is denied, in whole or in part, prompt notice of denial will be given.

## PART 621—AVAILABILITY OF RECORDS

Sec.

621.1 Official records available to public.

621.2 Records generally confidential; application for disclosure.

§ 621.1 *Official records available to public—(a) Records available for inspection and distribution.* The following documents are available for inspection and, in so far as supply permits, for distribution on application to the Philippine Alien Property Administration, Manila, Philippine Islands, or Room 209, Willard Building, Washington 25, D. C..

(1) Annual Reports of the Office of Philippine Alien Property Administration.

(2) Instructions and forms for filing claims, and for reporting information which the Philippine Alien Property Administrator requires.

(3) Final determination, opinions, and orders in cases heard or reviewed by the Vested Property Claims Committee.

(4) Notices of public sale, prospectuses, and terms and conditions of sale.

(5) Rules issued by the Office of Philippine Alien Property Administrator.

(6) Documents which have been published in the FEDERAL REGISTER, or Official Gazette.

(7) Formal Opinions of the General Counsel issued for the guidance of the public.

(b) *Records available for inspection.* The following documents are available for inspection by persons properly and directly concerned on application to Philippine Alien Property Administrator, Manila, Philippine Islands.

(1) Claims filed with the Office of Philippine Alien Property Administrator.

(2) Records in cases heard or reviewed by the Vested Property Claims Committee.

(3) Records of bids in public sales, notifications of acceptance, and orders for sale.

(4) Copies of Vesting Orders executed and published by the Philippine Alien Property Administrator. (Secs. 3, 12, Pub. Law 404, 79th Cong., 60 Stat. 238, 244; E. O. 9818, Jan. 7, 1947, 12 F. R. 133)

§ 621.2 *Records generally confidential; application for disclosure.* (a) The files and papers (including, without limiting all correspondence, records, reports and other documents) of the Office of Philippine Alien Property Administrator are in the custody and possession of the Philippine Alien Property Administrator.

Officers, employees, representatives, and agents of the Office of Philippine Alien Property Administration have access to such papers exclusively for the limited purposes of their official duties.

(b) All information and all such files and papers obtained by officers, employees, representatives or agents of the Office of Philippine Alien Property Administrator in the course of any examination, investigation, study or other employment with respect to any matter relating to the functions, duties, responsibilities, authority and power committed to the Philippine Alien Property Administrator by Executive order or statute or otherwise shall be deemed strictly confidential unless made a matter of public record by order of the Philippine Alien Property Administrator or his authorized representative or unless the Philippine Alien Property Administrator or his authorized representative shall otherwise direct.

(c) No officer, employee, representative or agent of the Office of Philippine Alien Property Administrator shall produce or

disclose directly or indirectly, to any person or before any court or administrative agency or other tribunal, other than the Philippine Alien Property Administrator or an officer, employee, representative or agent of the Office of Philippine Alien Property Administrator, whether in response to a subpoena or otherwise, any such confidential information, or any such files or papers, or the existence and contents thereof, unless the Philippine Alien Property Administrator or his authorized representative shall have authorized the disclosure thereof as not being contrary to the public interest.

(d) Any officer, employee, representative or agent of the Office of Philippine Alien Property Administrator who is served with any such subpoena or other process or order requiring the production of such files or papers or disclosure of such information shall promptly advise the Philippine Alien Property Administrator of such service and of the nature of the information or documents sought and any facts or circumstances which may bear upon the desirability of making available such information or documents.

(e) Any officer, employee, representative or agent of the Office of Philippine Alien Property Administrator who is served with any subpoena, process or order of any court or administrative agency or other tribunal requiring the disclosure of any such information or the production of any such files or papers or the disclosure of the existence or contents thereof shall appear in court or before the administrative agency or other tribunal and unless authority to the contrary shall have been given as provided in paragraph (c) of this section, shall respectfully decline to disclose the information or to produce the files or papers called for by such subpoena or other process or order, basing his refusal to do so upon this section.

(f) The files and papers of the Office of Philippine Alien Property Administrator are available to the President of the United States, or his specially authorized representative, and to the Congress or either House or a standing or special Committee of either House or joint Committee of the Congress.

(g) The files and papers of the Office of Philippine Alien Property Administrator will be made available to other agencies and departments of the United States or of the Republic of the Philippines, under suitable safeguards pursuant to arrangements made with the several agencies and departments.

(h) It shall be the policy of the Philippine Alien Property Administrator to make available to the courts of the United States and of the several States, territories and possessions and to the executive agencies of the United States and of the several States, territories and possessions and to those of the Republic of the Philippines, information and documents in his possession as freely and promptly as is consistent in his judgment with the public interest.

(i) A litigant or claimant preparing for trial or hearing will, in so far as consistent with the provisions of this section, be granted access to pertinent records in order to determine what portions of the records he will require.

(j) No officer, employee, representative or agent of the Office of Philippine Alien Property Administrator shall have authority to determine generally or specifically what files or papers or information may be disclosed unless expressly given authority for that purpose by the Philippine Alien Property Administrator, or his duly authorized representative. See also § 600.9 of this chapter. (Secs. 3, 12, Pub. Law 404, 79th Cong., 60 Stat. 238, 244; E. O. 9818, Jan. 7, 1947, 12 F. R. 133)

Executed in Manila, P. I. this 6th day of March 1947.

[SEAL] JAMES MCI. HENDERSON,  
Administrator

[F. R. Doc. 47-2844; Filed, Mar. 26, 1947;  
8:46 a. m.]

## TITLE 14—CIVIL AVIATION

### Chapter II—Administrator of Civil Aeronautics, Department of Commerce

#### PART 652—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER SECTION 609 OF THE CIVIL AERONAUTICS ACT OF 1938, AS AMENDED, TO ALTER, AMEND, OR MODIFY CERTIFICATES ISSUED BY THE ADMINISTRATOR

##### METHODS OF PROCEDURE

Acting pursuant to the authority vested in me by section 609 of the Civil Aeronautics Act of 1938, as amended (52 Stat. 973, 1011, 1017-1025, 54 Stat. 1231, 1233-1236), and in accordance with the Administrative Procedure Act (Public Law 404, 79th Congress, 2d Session) I hereby adopt a new part, Part 652, of the Regulations of the Administrator of Civil Aeronautics, to read as follows:

##### Sec.

- 652.1 Definitions.
- 652.2 Initiation of proceedings.
- 652.3 Service of order to show cause.
- 652.4 Response to order to show cause.
- 652.5 Request for, or waiver of, hearing.
- 652.6 Notice of hearing.
- 652.7 Hearing.
- 652.8 Appearances.
- 652.9 Subpoenas.
- 652.10 Submission without hearing or appearance.
- 652.11 Stay of order pending judicial review.
- 652.12 Petition for rehearing, reargument, reconsideration, or modification of order.
- 652.13 Authority of examiners.

AUTHORITY: §§ 652.1 to 652.13, inclusive, issued under 52 Stat. 973, 1011, 1017-1025; 54 Stat. 1231, 1233-1236; 49 U. S. C. 559, 641-649.

§ 652.1 *Definitions.* (a) "Act" means Civil Aeronautics Act of 1938, as amended (52 Stat. 973; 54 Stat. 1231, 1233, 1234, 1235-1236; 49 U. S. C. 401)

(b) "Administrator" means Administrator of Civil Aeronautics.

§ 652.2 *Initiation of proceedings.* A proceeding shall be initiated by the Administrator or his authorized representative by the issuance of an order addressed to the certificate holder or other party in interest, directing him to show cause why the certificate shall not be altered, amended, or modified as specified in the order.

§ 652.3 *Service of order to show cause.* The order to show cause will be served upon the party in interest by mailing a copy thereof by registered mail, return receipt requested, addressed to the party at his last known address.

§ 652.4 *Response to order to show cause.* After service upon him of the order to show cause, the respondent shall have ten days within which to respond in writing to the order. Such answer shall be deemed filed as of the date of mailing to the General Counsel properly addressed and postage prepaid. If respondent fails to answer the order within ten days, the Administrator or the Examiner assigned to hear the matter may forthwith order that the certificate be amended in accordance with the show cause order.

§ 652.5 *Request for, or waiver of, hearing.* The respondent shall have the right to have the matter set for hearing and the issue determined on the basis of the facts presented at such hearing. If respondent fails to request a hearing within ten days after serving of the order to show cause, the issues may be decided upon the basis of facts and arguments presented in writing by the respondent and the counsel assigned to represent the Government.

§ 652.6 *Notice of hearing.* When a hearing has been requested, the respondent shall be given adequate notice of the date and place where such hearing will be held. In fixing the times and places for hearings, due regard shall be had for the convenience and necessity of the parties and their representatives.

§ 652.7 *Hearing.* A hearing shall be held before an Examiner duly designated by the Administrator.

§ 652.8 *Appearances.* Any party to a proceeding may appear and be heard in person or by attorney. No register of attorneys who may practice before the Administrator is maintained and no application for admission to practice is required. Any attorney practicing or desiring to practice before the Administrator may, upon hearing and good cause shown, be suspended or prohibited from so practicing.

§ 652.9 *Subpoenas.* Subpoenas requiring the attendance of witnesses, or the production of evidence, at a designated place of hearing, shall be issued to any party to a proceeding upon proper application to the Examiner.

§ 652.10 *Submission without hearing or appearance.* Where respondent does not request a hearing, the Examiner, on the basis of the pleadings and the documentary evidence submitted by the parties, shall prepare an initial decision. A copy of the initial decision shall be served upon the respondent or his counsel, by personal service or registered mail. The parties to the proceedings shall have ten days, or such other time as the Examiner may specify, after the date of service of such initial decision within which to file exceptions and appeal to the Administrator. If no appeal to the Administrator is filed or action by the Administrator to review such decision is entered within the time allowed,



such decision shall without further proceedings become the decision of the Administrator.

§ 652.11 *Stay of order pending judicial review.* The filing of a petition for a judicial review of an order made under this part as provided in section 1006 of the act shall not operate to stay the effectiveness of the order unless specifically so ordered by the Administrator. The petitioner may request, and if good cause is shown therefor, the Administrator will stay the effectiveness of the order from which an appeal is being taken.

§ 652.12 *Petition for rehearing, reargument, reconsideration or modification of order.* (a) Either party to a proceeding may petition for rehearing, reargument, reconsideration or modification of any final order of the Administrator within ten days after receipt thereof.

(b) The filing of a petition to rehear or reargue a proceeding or to reconsider or modify an order, shall not operate to stay the effectiveness of the order, unless otherwise ordered by the Administrator.

§ 652.13 *Authority of examiners.* Examiners shall have authority as follows:

(a) To give notice concerning, and hold, hearings;

(b) To administer oaths and affirmations;

(c) To examine witnesses;

(d) To take or cause depositions to be taken whenever the ends of justice would be served thereby;

(e) To rule upon offers of proof and receive competent evidence;

(f) To regulate the course of the hearing;

(g) To hold conferences, before or during the hearing, for the settlement or simplification of issues, by consent of the parties;

(h) To dispose of procedural requests or similar matters;

(i) Within his discretion, or upon the direction of the Administrator, to certify any question to the Administrator for his consideration and disposition;

(j) To issue subpoenas;

(k) To make initial decisions.

This part shall become effective upon publication in the FEDERAL REGISTER.

[SEAL] T. P. WRIGHT,  
Administrator of Civil Aeronautics.

[F. R. Doc. 47-2865; Filed, Mar. 26, 1947;  
8:50 a. m.]

## TITLE 17—COMMODITY AND SECURITIES EXCHANGES

### Chapter I—Commodity Exchange Authority (Including Commodity Exchange Commission), Department of Agriculture

#### PART 0—RULES OF PRACTICE

#### PROCEEDINGS BEFORE COMMODITY EXCHANGE COMMISSION

By virtue of the authority vested in the Commodity Exchange Commission by the Commodity Exchange Act, as

No. 61—2.

amended (42 Stat. 998, 49 Stat. 1491, 52 Stat. 205, 54 Stat. 1059, 7 U. S. C. 1-17a), and the Administrative Procedure Act (60 Stat. 237), the rules of practice appearing in Title 17, Chapter I, Part 0, Subpart B, Cumulative and 1945 Supplements to the Code of Federal Regulations, are hereby amended as follows:

1. By striking § 0.52 (c) and substituting in lieu thereof the following:

§ 0.52 *Definitions.* \* \* \*

(c) The term "Secretary" means the Secretary of Agriculture or any person to whom authority has heretofore lawfully been delegated or to whom authority may hereafter lawfully be delegated to act in his stead;

2. By striking § 0.52 (e) and substituting in lieu thereof the following:

(e) The term "Commodity Exchange Authority" means the Commodity Exchange Authority, United States Department of Agriculture;

3. By striking § 0.52 (o) and substituting in lieu thereof the following:

(o) The term "hearing clerk" means the hearing clerk, United States Department of Agriculture, Washington 25, D. C.,

4. By striking § 0.52 (p) and substituting in lieu thereof the following:

(p) The term "referee" means an examiner conducting a proceeding under the act;

5. By striking § 0.52 (q) and substituting in lieu thereof the following:

(q) The term "referee's report" (presiding officer's report) means the referees' report to the Commission, and includes the referee's proposed (1) findings of fact and conclusions with respect to all material issues of fact, law or discretion, as well as the reasons or basis therefor, (2) order, and (3) rulings on findings, conclusions and orders submitted by the parties;

6. By striking § 0.52 (r) and substituting in lieu thereof the following:

(r) The term "Act Administrator" means the Administrator of the Commodity Exchange Authority, United States Department of Agriculture, in his capacity as Administrator of the Commodity Exchange Act, or any officer or employee of the Commodity Exchange Authority to whom he has heretofore lawfully delegated or may hereafter lawfully delegate the authority to act in his stead;

7. By adding at the end of § 0.52 a new paragraph as follows:

(s) The term "examiner" means any examiner in the Office of Hearing Examiners, United States Department of Agriculture.

8. By striking the period at the end of the first sentence of paragraph (c) of § 0.53 *Institution of proceedings* and inserting a colon in lieu thereof and adding the following proviso: "Provided, That in any case, except one of wilfulness or one in which the public health, interest or safety otherwise requires, prior to the institution of a proceeding for the suspension or revocation of any

designation of a contract market, facts or conditions which may warrant such action shall be called to the attention of the market in writing and such market shall be accorded opportunity to demonstrate or achieve compliance with all lawful requirements."

9. By amending § 0.57 (a) to read as follows:

§ 0.57 *Referees*—(a) *Assignment.* No referee shall be assigned to serve in any proceeding who (1) has any pecuniary interest in any matter or business involved in the proceeding, (2) is related within the third degree by blood or marriage to any party to the proceeding, or (3) has participated in the investigation preceding the institution of the proceeding or in the determination that it should be instituted or in the preparation of the complaint or in the development of the evidence to be introduced therein.

10. By amending § 0.57 (c) to read as follows:

(c) *Conduct.* The referee shall conduct the proceeding in a fair and impartial manner and, save to the extent required for the disposition of ex parte matters as authorized by law, he shall not consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate.

11. By amending § 0.57 (e) to read as follows:

(e) *Who may act in the absence of the referee.* In case of the absence of the referee, or his inability to act, the powers and duties to be performed by him under these rules of practice in connection with a proceeding assigned to him may, without abatement of the proceeding unless otherwise ordered by the Commission, be assigned to any other referee.

12. By amending § 0.59 to read as follows:

§ 0.59 *The answer*—(a) *Filing and service.* Within 20 days after service of the complaint, the respondent shall file, in quintuplicate, with the hearing clerk, an answer, signed by the respondent or his attorney. *Provided,* That the Commission may order that the hearing be held without answer or other pleading. The answer shall be served upon the complainant, and any other party of record, in the manner provided in § 0.72.

(b) *Contents; failure to file.* Such answer shall (1) contain a statement of the facts which constitute the grounds of defense, and shall specifically admit, deny, or explain each of the allegations of the complaint unless respondent is without knowledge, in which case the answer shall so state; or (2) state that the respondent admits all of the allegations of the complaint. The answer may contain a waiver of hearing.

Failure to file an answer to or plead specifically to any allegation of the complaint shall constitute an admission of such allegation.

(c) *Procedure upon admission of facts.* The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint shall constitute a waiver

of hearing. Upon such admission of facts, the referee, without further investigation or hearing, shall prepare his report, in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint. Unless the parties have waived service of the referee's report, it shall be served upon them in the manner provided in § 0.72. The parties shall be given an opportunity to file exceptions to the report, to file briefs in support of such exceptions, and to make oral argument thereon before the Commission. Any request to make oral argument before the Commission must be filed in the manner, and within the time provided in paragraph (d) of § 0.66.

13. By amending § 0.66 (b) to read as follows:

§ 0.66 *Referee's report.* \* \* \*

(b) *Proposed findings of fact, conclusions, and orders.* Within 10 days after receipt of notice that the transcript has been filed, each party may file with the hearing clerk proposed findings of fact, conclusions, and orders, based solely upon the record, and a brief in support thereof.

14. By amending § 0.66 (c) to read as follows:

(c) *Referee's report.* The referee, within a reasonable time after the termination of the period allowed for the filing of proposed findings of fact, conclusions, and orders, and briefs in support thereof, shall prepare, upon the basis of the record and shall file with the hearing clerk, his report, a copy of which shall be served by the hearing clerk upon each of the parties.

15. By amending the first sentence of paragraph (a) of § 0.70 *Preparation and issuance of order* to read as follows: "As soon as practicable after the receipt of the record from the hearing clerk, or, in the case oral argument was had, as soon as practicable thereafter, the Commission, upon the basis of and after due consideration of the record, shall prepare its order in the proceeding which shall include findings, conclusions, order, and rulings on motions, exceptions, proposed findings, conclusions and orders submitted by the parties, not theretofore ruled upon.

16. By amending § 0.71 (a) (2) to read as follows:

§ 0.71 *Applications for reopening hearings, for rehearings or rearguments of proceedings or for reconsideration of orders—(a) Petition requisite.* \* \* \*

(2) *Petitions to reopen hearings.* A petition to reopen a hearing to take further evidence may be filed at any time prior to the issuance of the final order. Every such petition shall state briefly the nature and purpose of the evidence to be adduced, shall show that such evidence is not merely cumulative, and shall set forth a good reason why such evidence was not adduced at the hearing. Every such petition shall be served by the hearing clerk on the other parties to the proceeding.

17. By striking the period at the end of the third sentence of § 0.73 *Requests for promulgation, amendment, or rescis-*

*sion of regulations* and inserting a colon in lieu thereof and adding the following proviso: "Provided, That notice shall be given of the denial in whole or in part of any such request and, except in affirming a prior denial or where the denial is self-explanatory, such notice shall be accompanied by a simple statement of procedural or other grounds for denial."

18. By adding at the end of paragraph (a) of § 0.76 *Conduct of hearing*, a sentence reading as follows: "The presiding officer shall have authority to administer oaths or affirmations and to take all other actions necessary to the orderly conduct of the hearing."

19. By striking the word "suggested" wherever it appears in § 0.67 (i) and § 0.68 and substituting in lieu thereof the word "proposed."

20. By amending § 0.80 (a) to read as follows:

§ 0.80 *Referees—(a) Assignment.* No referee shall be assigned to serve in any proceeding who (1) has any pecuniary interest in any matter or business involved in the proceeding, or (2) is related within the third degree by blood or marriage to any of the directors or officers of any of the parties to the proceeding.

21. By deleting paragraphs (c) and (d) of § 0.80 *Referees* and inserting in lieu thereof the following:

(c) *Conduct.* The provisions of paragraph (c) of § 0.57 shall be applicable in 6a proceedings.

(d) *Powers of referee.* The provisions of paragraph (d) of § 0.57 shall be applicable in 6a proceedings.

(e) *Who may act in the absence of the referee.* The provisions of paragraph (e) of § 0.57 shall be applicable in 6a proceedings.

22. By amending the headnote of § 0.82 (b) to read as follows:

§ 0.82 *The answer* \* \* \*

(b) *Contents; failure to file.*

23. By amending the sentence immediately following the headnote in § 0.82 (c) to read as follows: "The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint shall constitute a waiver of hearing."

24. By deleting § 0.89 (b) and inserting in lieu thereof the following:

§ 0.89 *Referee's report.* \* \* \*

(b) The provisions of § 0.66 (b) shall be applicable in 6a proceedings.

25. By deleting § 0.89 (c) and inserting in lieu thereof the following:

(c) *The referee's report.* The provisions of paragraph (c) of § 0.66 shall be applicable in 6a proceedings.

26. By inserting the following as § 0.89 (d)

(d) *Exceptions.* The provisions, except those contained in the last sentence, of paragraph (d) of § 0.66 shall be applicable in 6a proceedings.

27. By amending § 0.90 to read as follows:

§ 0.90 *The shortened procedure.* The provisions of § 0.67 shall be applicable in 6a proceedings.

28. By deleting § 0.91 and inserting in lieu thereof the following:

§ 0.91 *Transmittal of record.* The provisions of § 0.68 shall be applicable in 6a proceedings.

29. By deleting § 0.92 (b) and inserting in lieu thereof the following:

§ 0.92 *Argument before the Commission.* \* \* \*

(b) *Exceptions; briefs.* The Commission will consider all exceptions taken to the referee's report, all statements of objections, and briefs filed in support thereof.

Additional briefs may be filed only with leave of the Commission.

30. By deleting § 0.93 and inserting in lieu thereof the following:

§ 0.93 *Preparation and issuance of order—(a) Preparation of order.* As soon as practicable after the receipt of the record from the hearing clerk, the Commission, upon the basis, and after due consideration, of the record, shall prepare its order in the proceeding which shall include findings, conclusions, order, and rulings on motions, exceptions, proposed findings, conclusions and orders submitted by parties, not theretofore ruled upon.

(b) *Issuance of order.* The order, prepared as described in paragraph (a) of this section, shall be issued and served upon the parties as the final order in the proceeding without further procedure: *Provided*, That, if the terms of the order differ substantially from those proposed in the report of the referee, the Commission may, if it deems it advisable to do so, direct that a copy of the order be served upon the parties as a tentative order; and, in such event, opportunity shall be given the parties to file exceptions thereto and written arguments or briefs in support of such exceptions. In such case, if no exceptions are filed within 20 days following the service of the tentative order, it shall be issued and served as the final order in the proceeding.

31. By adding a new subheading and section as follows:

#### RULES APPLICABLE TO ALL PROCEEDINGS

§ 0.96 *Hearings before the Commission.* The Commission may act in the place and stead of a referee or presiding officer in any proceeding hereunder. When it so acts, the hearing clerk shall transmit the record to the Commission at the expiration of the period provided for the filing of proposed findings of fact, conclusions and orders, and the Commission shall thereupon, after due consideration of the record, issue its final order in the proceeding: *Provided*, That it may issue a tentative order, in which event the parties shall be afforded an opportunity to file exceptions before the issuance of the final order.

NOTE: Unless otherwise ordered, all proceedings initiated under the Commodity Exchange Act and pending on December 11, 1946, shall be conducted and concluded in

accordance with the applicable rules of practice in effect at the time the proceedings were instituted.

(42 Stat. 998, 49 Stat. 1491, 52 Stat. 205, 54 Stat. 1059, secs. 3, 12, Pub. Law 404, 79th Cong., 60 Stat. 238, 244; 7 U. S. C. 1-17a)

Issued this 7th day of February 1947.

Commodity Exchange Commission.

[SEAL] CLINTON P. ANDERSON,  
Secretary of Agriculture, Chairman.  
W. A. HARRILLAN,  
Secretary of Commerce.

MARCH 21, 1947.

TOM CLARK,  
Attorney General.

MARCH 12, 1947.

[F. R. Doc. 47-2868; Filed, Mar. 26, 1947;  
8:50 a. m.]

## Chapter II—Securities and Exchange Commission

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND INVESTMENT COMPANY ACT OF 1940

### SCHEDULES TO BE FILED

The Securities and Exchange Commission deems it necessary for the exercise of the functions vested in it and appropriate in the public interest and for the protection of investors to amend § 210.6-10 (a) (1) (Rule 6-10 (a) (1)) of Regulation S-X. The amendment makes the rule also applicable to Schedule I (Investments in securities of unaffiliated issuers) thereby requiring such schedule to be filed only as of the date of the most recent balance sheet instead of for each period for which a statement of income and expense is filed as presently required by § 210.6-10 (a) (2) (Rule 6-10 (a) (2)) of Regulation S-X. The purpose of the amendment is to relieve registrants of a reporting requirement which the Commission considers has no material adverse effect on investors. The Commission for good cause finds that notice and public procedure provided for in section 4 (a) and (b) of the Administrative Procedure Act are unnecessary for the reasons that the amendment has no material adverse effect on investors and the effect on the registrants is to reduce their reporting requirements; and the Commission deems that the amendment is exemptive or relieving restriction within the meaning of section 4 (c) of that act. Therefore, the Commission, pursuant to authority conferred upon it by the Securities Act of 1933, particularly sections 7 and 19 (a) thereof, the Securities Exchange Act of 1934, particularly 12, 13, 15 (d) and 23 (a) thereof, and the Investment Company Act of 1940, particularly sections 8, 30, 31 (c) and 38 (a) thereof, hereby amends, effective immediately § 210.6-10 (a) (1) (Rule 6-10 (a) (1)) of Regulation S-X by inserting between the word "schedules" and the Roman numeral "VII," the Roman numeral "I" with a comma thereafter.

As amended § 210.6-10 (a) (1) (Rule 6-10 (a) (1)) reads as follows:

§ 210.6-10 *What schedules are to be filed.* (a)

(1) The schedules specified below in this rule as Schedules I, VII, VIII and IX shall be filed as of the date of the most recent balance sheet filed for each person and for each group for which separate statements are filed. Such schedules shall be certified if the related balance sheet is certified.

(Secs. 7 and 19 (a) 48 Stat. 78, 85, secs. 12, 13, 48 Stat. 892, 894, sec. 15 (d), 49 Stat. 1379, sec. 23 (a), 48 Stat. 901, secs. 8, 30, 31 (c) 38 (a) 54 Stat. 803, 836, 838, 841, 15 U. S. C. 77g, 77s, 781, 78m, 78o, 78w, 80a-8, 80a-29, 80a-30, 80a-37)

By the Commission.

[SEAL] ORVAL L. DUBOIS,  
Secretary.

MARCH 20, 1947.

[F. R. Doc. 47-2839; Filed, Mar. 26, 1947;  
8:50 a. m.]

## TITLE 18—CONSERVATION OF POWER

### Chapter IV—Southwestern Power Administration, Department of the Interior

#### PART 500—ORGANIZATION AND PROCEDURE

##### DELEGATION OF AUTHORITY CONCERNING CONSTRUCTION CONTRACTS

CROSS REFERENCE: For an addition to the list of delegations of authority contained in §§ 500.40 and 500.41, see Title 43, Part 4, *infra*, delegating to the Administrator of the Southwestern Power Administration certain authority concerning construction contracts.

## TITLE 20—EMPLOYEES' BENEFITS

### Chapter II—Railroad Retirement Board

#### PART 237—INSURANCE ANNUITIES AND LUMP SUMS FOR SURVIVORS

##### SUBPART A—INSURED STATUS

- Sec.  
237.101 Statutory provisions.  
237.102 Completely insured status.  
237.103 Partially insured status.

##### SUBPART B—BASIC COMPUTATION

- 237.201 Statutory provisions.  
237.202 Basic amount.  
237.203 Average monthly remuneration.

##### SUBPART C—FAMILY RELATIONSHIPS

- 237.301 Statutory provisions.  
237.302 Applicable State law and status.  
237.303 Definition of "widow"  
237.304 Definition of "living with"  
237.305 Definition of "child"  
237.306 Definition of "dependent upon"  
237.307 Definition of "parent"  
237.308 Definition of "wholly dependent upon and supported by"

##### SUBPART D—INSURANCE ANNUITY PAYMENTS TO SURVIVORS

- 237.401 Statutory provisions.  
237.402 Widow's insurance annuity.  
237.403 Widow's current insurance annuity.  
237.404 Child's insurance annuity.  
237.405 Parent's insurance annuity.  
237.406 Beginning and ending of insurance annuities.

##### SUBPART E—LUMP-SUM DEATH PAYMENTS

- Sec.  
237.501 Statutory provisions.  
237.502 Lump-sum death payments.  
237.503 Payment when lump sum exceeds insurance annuities accrued.  
237.504 Meaning of terms.

##### SUBPART F—MAXIMUM AND MINIMUM INSURANCE ANNUITY TOTALS

- 237.601 Statutory provisions.  
237.602 Application of maximum and minimum and basis for computation.  
237.603 Reduction.  
237.604 Increase.  
237.605 Monthly application of provisions.  
237.606 Relation to provisions for deductions and adjustments.

##### SUBPART G—DEDUCTIONS

- 237.701 Statutory provisions.  
237.702 Deductions because of compensated service, etc.  
237.703 Deductions because of death-benefit payments, etc.

##### SUBPART H—APPLICATION FOR INSURANCE ANNUITIES AND LUMP SUMS FOR SURVIVORS

- 237.801 Statutory provisions.  
237.802 Necessity of application.  
237.803 Filing date of application.  
237.804 Record of expressed intention as application.  
237.805 Limitation on filing.  
237.806 Filing of application with Social Security Administration.

##### SUBPART I—MISCELLANEOUS

- 237.901 Statutory provisions.  
237.902 Act of March 7, 1942 (56 Stat. 143, 144).  
237.903 Payment of insurance annuity in lump sum.  
237.904 Meaning of "retirement annuity"  
237.905 Filing date of proof of dependency and support.

AUTHORITY: §§ 237.101 to 237.905, inclusive, issued under sec. 10, 59 Stat. 314; 45 U. S. C. 223; Interpret and apply sec. 213, Pub. Law 572, 79th Cong. The subparts are preceded by the respective statutory provisions to which they refer.

##### SUBPART A—INSURED STATUS.

###### § 237.101 Statutory provisions.

An employee will have been "completely insured" if it appears to the satisfaction of the Board that at the time of his death, whether before or after the enactment of this section, he will have had the qualifications set forth in any one of the following paragraphs:

(I) A current connection with the railroad industry; and a number of quarters of coverage, not less than six, and at least equal to one-half of the number of quarters, elapsing in the period after 1936, or after the quarter in which he will have attained the age of twenty-one, whichever is later, and up to but excluding the quarter in which he will have attained the age of sixty-five years or died, whichever will first have occurred (excluding from the elapsed quarters any quarter during any part of which a retirement annuity will have been payable to him); and if the number of such elapsed quarters is an odd number such number shall be reduced by one; or

(II) A current connection with the railroad industry; and forty or more quarters of coverage; or

(III) A pension will have been payable to him; or a retirement annuity based on service of not less than ten years (as computed in awarding the annuity) will have begun to accrue to him before 1943. (Section 5 (1) (7) of the Act)

An individual shall be deemed to have "a current connection with the railroad industry" at the time an annuity begins to accrue to him and at death if, in any thirty

consecutive calendar months before the month in which an annuity under section 2 begins to accrue to him (or the month in which he dies if that first occurs), he will have been in service as an employee in not less than twelve calendar months and, if such thirty calendar months do not immediately precede such month, he will not have been engaged in any regular employment other than employment for an employer in the period before such month and after the end of such thirty months. For the purposes of section 5 only, an individual shall be deemed also to have a "current connection with the railroad industry" if he is in all other respects completely insured but would not be fully insured under the Social Security Act, or if he is in all other respects partially insured but would be neither fully nor currently insured under the Social Security Act, or if he has no wage quarters of coverage. (Section 1 (o) of the Act)

The term "quarter of coverage" shall mean a compensation quarter of coverage or a wage quarter of coverage, and the term "quarters of coverage" shall mean compensation quarters of coverage, or wage quarters of coverage, or both. Provided, That there shall be for a single employee no more than four quarters of coverage for a single calendar year. (Section 5 (1) (3) of the Act)

The term "compensation quarter of coverage" shall mean any quarter of coverage computed with respect to compensation paid to an employee after 1936 in accordance with the following table:

Months of service in a calendar year	Total compensation paid in the calendar year				
	Less than \$50	\$50 but less than \$100	\$100 but less than \$150	\$150 but less than \$200	\$200 or more
1-3.....	0	1	1	1	1
4-6.....	0	1	2	2	2
7-9.....	0	1	2	3	3
10-12.....	0	1	2	3	4

(Section 5 (1) (4) of the act)

The term "wage quarter of coverage" shall mean any quarter of coverage determined in accordance with the provisions of Title II of the Social Security Act. (Section 5 (1) (5) of the Act)

§ 237.102 *Completely insured status—*  
(a) *Payments based upon, and existence of, completely insured status.* All insurance annuities and lump sums for survivors are conditioned upon a deceased employee's insured status. This status is determined by his service, compensation and wage history. Unless a deceased employee was completely insured at death, his widow cannot become entitled to a widow's insurance annuity, and his surviving parent cannot become entitled to a parent's insurance annuity, on the basis of his earnings. For the purpose of determining whether a deceased employee was a completely insured employee at death it is immaterial whether his death occurred before, on, or after the enactment date of section 5 of the act.

A deceased employee was completely insured at death if (1) he had acquired a certain number of quarters of coverage and had a current connection with the railroad industry at the time of his death, or (2) there had been payable to him a pension under section 6 of the act, or (3) there had begun to accrue to him, before 1948, a retirement annuity based

on not less than ten years of service (as computed in awarding the annuity)

(b) *Quarter of coverage.* A quarter of coverage may be either a compensation quarter of coverage or a wage quarter of coverage.

A compensation quarter of coverage is a quarter of coverage computed, with respect to compensation paid an employee after 1936, regardless of his age, in accordance with the table contained in section 5 (1) (4) of the act.

A wage quarter of coverage is a quarter of coverage determined in accordance with the provisions of title II of the Social Security Act.

The term "quarters of coverage" includes compensation quarters of coverage, wage quarters of coverage, or both. However, no employee may acquire more than four quarters of coverage for a single calendar year.

(c) *Current connection with the railroad industry.* A deceased employee had a current connection with the railroad industry at the time of his death if he had had a period of thirty consecutive calendar months which met certain requirements set out in the act. First of all, that period must have been before any retirement annuity began to accrue to the employee, or before the month in which he died, if that occurred first. Secondly, he must during that period have been in service as an employee in at least twelve calendar months. A third requirement must have been met if there was any interval between the end of the thirty-month period in question and the month in which a retirement annuity began to accrue to the employee, or the month in which he died, if that occurred first. In that interval the employee must not have been engaged in any regular employment other than employment for an employer; as here used, "regular employment" means full or part-time service, for remuneration, by an individual in the employ of another on a recurring basis. For the purpose of determining the existence of a current connection, an individual performing service for remuneration, whether or not under a contract, is deemed to be in the employ of another unless such service is performed as a part of his independently established trade, business, or occupation; and in the absence of evidence to the contrary, an individual is presumed to be regularly employed if he has been paid remuneration of not less than \$200 in each of two consecutive calendar quarters.

Even though the deceased employee had no period of thirty consecutive calendar months which met the requirements discussed above, he may, nevertheless, have had, at the time of his death, a current connection with the railroad industry for the purposes of this part. This will be true if the employee was not fully insured under the Social Security Act, but met all the requirements (aside from that of current connection with the railroad industry) of a completely insured status under paragraph (d) of this section. It will also be true if the employee was neither fully insured nor currently insured under the Social Security Act, but met all the require-

ments (aside from that of current connection with the railroad industry) of a partially insured status under § 237.103. Finally, it will be true if the employee had no wage quarters of coverage.

(d) *Determination of completely insured status on basis of quarters of coverage and current connection.* A deceased employee, whether or not he was completely insured at death by virtue of having been a pensioner or an annuitant, could have been completely insured at the time of his death if at that time he had a current connection with the railroad industry, and at least forty quarters of coverage. Even if he had less than forty quarters of coverage, he could have been completely insured at the time of his death if at that time he had a current connection with the railroad industry, and a required number of quarters of coverage, not less than six, as provided in this paragraph. If such an employee did not have, at the time of his death, a current connection with the railroad industry, or if he had less than six quarters of coverage, he was not a completely insured employee under the provisions of this paragraph. In the case of a deceased employee who, at the time of his death, had a current connection with the railroad industry, and at least six, but less than forty, quarters of coverage, the determination of whether he had a completely insured status under the provisions of this paragraph is made as follows:

(1) *Elapsed quarters.* Take the number of calendar quarters which have elapsed after 1936, or after the quarter in which the employee attained the age of 21 if he attained such age after 1936, and up to but excluding the quarter in which the employee attained the age of 65 or died, whichever occurred first. Subtract from that number of elapsed quarters the number of such quarters during any part of which a retirement annuity was payable to the employee. If the resulting number of elapsed quarters is an odd number, subtract one. Take one-half of the number of elapsed quarters thus obtained, and the resulting number, if six or more, is the number of quarters of coverage required; if the resulting number is less than six, the number of quarters of coverage required is six.

(2) *Quarters of coverage determined.* Determine the number of quarters of coverage the employee had acquired. If this number equals or exceeds the number required, the employee was completely insured.

A quarter of coverage may be acquired at any time subsequent to December 31, 1936, regardless of whether there are any elapsed quarters under subparagraph (1) of this paragraph and regardless of the age of the employee.

Quarters of coverage need not be consecutive and no particular order of their acquisition is required.

§ 237.103 *Partially insured status—*  
(a) *Payments based upon partially insured status.* An employee who was not completely insured at death may nevertheless have had a service, compensation and wage history which, upon his death, will give him the status of a partially in-

sured employee. Unless he was either completely insured or partially insured at death, his widow cannot become entitled to a widow's current insurance annuity, his surviving child cannot become entitled to a child's insurance annuity, and no person can become entitled to a lump-sum payment, on the basis of his earnings. For the purpose of determining whether a deceased employee was a partially insured employee at death it is immaterial whether his death occurred before, on, or after the enactment date of section 5 of the act.

(b) *Determination of partially insured status.* A deceased employee was a partially insured employee at death if he had a current connection with the railroad industry, and at least six quarters of coverage in a prescribed period. That period consists of the three calendar years preceding the year in which the employee died, and those calendar quarters of the year of his death which preceded the quarter in which he died.

Quarters of coverage need not be consecutive and no particular order of their acquisition is required.

#### SUBPART B—BASIC COMPUTATION

##### § 237.201. *Statutory provisions.*

The term "basic amount" shall mean:

(i) For an employee who will have been partially insured, or completely insured solely by virtue of paragraph (7) (i) or (7) (ii) or both: the sum of (A) 40 per centum of his average monthly remuneration, up to and including \$75; plus (B) 10 per centum of such average monthly remuneration exceeding \$75 and up to and including \$250, plus (C) 1 per centum of the sum of (A) plus (B) multiplied by the number of years after 1936 in each of which the compensation, wages, or both, paid to him will have been equal to \$200 or more; if the basic amount, thus computed, is less than \$10 it shall be increased to \$10;

(ii) For an employee who will have been completely insured solely by virtue of paragraph (7) (iii), the sum of 40 per centum of his monthly compensation if an annuity will have been payable to him, or, if a pension will have been payable to him, 40 per centum of the average monthly earnings on which such pension was computed, up to and including \$75, plus 10 per centum of such compensation or earnings exceeding \$75 and up to and including \$250. If the average monthly earnings on which a pension payable to him was computed are not ascertainable from the records in the possession of the Board, the amount computed under this subdivision shall be \$33.33, except that if the pension payable to him was less than \$25, such amount shall be four-thirds of the amount of the pension or \$13.33, whichever is greater. The term "monthly compensation" shall, for the purposes of this subdivision, mean the monthly compensation used in computing the annuity;

(iii) For an employee who will have been completely insured under paragraph (7) (iii) and either (7) (i) or (7) (ii) the higher of the two amounts computed in accordance with subdivisions (i) and (ii). (Section 5 (1) (10) of the Act)

An employee's "average monthly remuneration" shall mean the quotient obtained by dividing (A) the sum of the compensation and wages paid to him after 1936 and before the quarter in which he will have died, eliminating for any single calendar year, from compensation, any excess over \$300 for any calendar month in such year, and from the sum of wages and compensation any excess over \$3,000, by (B) three times the

number of quarters elapsing after 1936 and before the quarter in which he will have died: *Provided*, That for the period prior to and including the calendar year in which he will have attained the age of twenty-two there shall be included in the divisor not more than three times the number of quarters of coverage in such period: *Provided further*, That there shall be excluded from the divisor any calendar quarter during any part of which a retirement annuity will have been payable to him.

With respect to an employee who will have been awarded a retirement annuity, the term "compensation" shall, for the purposes of this paragraph, mean the compensation on which such annuity will have been based. (Section 5 (1) (9) of the Act)

The term "wages" shall mean wages as defined in section 209 (a) of the Social Security Act. (Section 5 (1) (6) of the Act)

§ 237.202 *Basic amount—(a) Payments fixed with relation to basic amount.* The amounts of all insurance annuities and lump sums for survivors are fixed with relation to the basic amount of the deceased employee on whose insured status they are conditioned.

(b) *Computation of basic amount.* The manner in which a deceased employee's basic amount is computed depends upon the nature of his insured status.

In the case of completely insured employees, a distinction is made between those whose completely insured status was based solely on a current connection with the railroad industry and the acquisition of the required numbers of quarters of coverage, and those who were completely insured solely because of having been pensioners or annuitants. The computation is made as follows:

(1) *Employee partially insured, or completely insured solely because of current connection and quarters of coverage.* In these cases:

(i) If the employee's average monthly remuneration does not exceed \$75, take forty percent of such average monthly remuneration. If the average monthly remuneration exceeds \$75, take forty percent of \$75 and add thereto ten percent of the amount by which the average monthly remuneration exceeds \$75 and does not exceed \$250.

(ii) Determine the number of calendar years, after 1936, in which \$200 or more of compensation, wages, or both, were paid to the employee. ("Wages" are defined in section 209 (a) of the Social Security Act as amended.) Multiply the number of such years by one percent of the amount computed under subdivision (i) of this subparagraph.

(iii) Add the figure computed under subdivision (i) and the figure computed under subdivision (ii) of this subparagraph. The sum so obtained is the basic amount. If such sum is less than \$10, it is increased to \$10.

(2) *Employee completely insured solely because of being a pensioner.* In these cases:

(i) If the average monthly earnings on which the pension was computed are ascertainable from the records in the possession of the Board, and if such average monthly earnings do not exceed \$75, take forty percent of such average monthly earnings. If such average

monthly earnings exceed \$75, take forty percent of \$75 and add thereto ten percent of the amount by which the average monthly earnings exceed \$75 and do not exceed \$250.

(ii) If the average monthly earnings on which the pension was computed are not ascertainable from the records in the possession of the Board, and if the pension was \$25 or more, the basic amount is \$33.33, but if the pension was less than \$25, the basic amount is four-thirds of the amount of the pension, or \$13.33, whichever is greater.

(3) *Employee completely insured solely because of being an annuitant.* In these cases: If the employee's monthly compensation does not exceed \$75, take forty percent of such monthly compensation. If the monthly compensation exceeds \$75, take forty percent of \$75 and add thereto ten percent of the amount by which the monthly compensation exceeds \$75 and does not exceed \$250. For the purposes of this subparagraph, "monthly compensation" means the monthly compensation which was used in computing the employee's annuity.

(4) *Employees completely insured both because of being pensioners or annuitants, and also because of current connection and quarters of coverage.* In these cases: If the employee was a pensioner, compare the amount computed under subparagraph (1) of this paragraph with the amount computed under subparagraph (2) of this paragraph; whichever is greater is the basic amount. If the employee was an annuitant, compare the amount computed under subparagraph (1) of this paragraph with the amount computed under subparagraph (3) of this paragraph; whichever is greater is the basic amount.

§ 237.203 *Average monthly remuneration.* A deceased employee's average monthly remuneration is computed by dividing his total compensation and wages by three times the number of his expired quarters. The total compensation and wages and the number of expired quarters are determined as follows:

(a) *Total compensation and wages.* With respect to the period after 1936 and up to but excluding the quarter in which the employee died:

(1) For each calendar year during that period take the total of the amounts of compensation paid the employee in each calendar month during that year, excluding any excess over \$300 for any calendar month.

(2) For each calendar year during that period take the amount of wages paid the employee in that calendar year. ("Wages" are defined in section 209 (a) of the Social Security Act as amended.)

(3) For each calendar year during that period add the figure arrived at under subparagraph (1) of this paragraph, and the figure arrived at under subparagraph (2) of this paragraph, with regard to that year. Exclude from the result any excess over \$3,000.

(4) For all calendar years during that period take the sum of the figures arrived at under subparagraph (3) of this paragraph with regard to each year. The result is the employee's total compensation and wages.



(b) *Expired quarters.* Take the number of calendar quarters which have elapsed after 1936 and up to but excluding the quarter in which the employee died; in arriving at this number, if the employee attained the age of 22 after 1936, include, for the period after 1936 and through the calendar year in which he attained that age, only a number of quarters equal to the number of quarters of coverage in that period. Subtract from the number of quarters thus arrived at the number of such quarters during any part of which a retirement annuity was payable to the employee.

#### SUBPART 3—FAMILY RELATIONSHIPS

§ 237.301 *Statutory provisions.* For the purposes of this section:

(1) The qualifications for "widow" "child" and "parent" shall be, except for the purposes of subsection (f), those set forth in section 209 (j) and (k), and section 202 (f) (3) of the Social Security Act, respectively; and in addition—

(i) A "widow" shall have been living with her husband employee at the time of his death;

(ii) A "child" shall have been dependent upon its parent employee at the time of his death; shall not be adopted after such death; shall be unmarried; and less than eighteen years of age; and

(iii) A "parent" shall have been wholly dependent upon and supported at the time of his death by the employee to whom the relationship of "parent" is claimed; and shall have filed proof of such dependency and support within two years after such date of death, or within six months after January 1, 1947.

A "widow" or a "child" shall be deemed to have been so living with a husband or so dependent upon a parent if the conditions set forth in section 209 (n) or section 202 (c) (3) or (4) of the Social Security Act, respectively, are fulfilled. In determining whether an applicant is the wife, widow, child, or parent of an employee as claimed, the rules set forth in section 209 (m) of the Social Security Act shall be applied. (Section 5 (1) of the Act)

The term "widow" (except when used in section 202 (g)) means the surviving wife of an individual who either (1) is the mother of such individual's son or daughter, or (2) was married to him prior to the beginning of the twelfth month before the month in which he died. (Section 209 (j) of the Social Security Act)

The term "child" means (1) the child of an individual, and (2) in the case of a living individual, a stepchild or adopted child who has been such stepchild or adopted child for thirty-six months immediately preceding the month in which application for child's benefits is filed, and (3) in the case of a deceased individual, stepchild or adopted child who was such stepchild or adopted child for twelve months immediately preceding the month in which such individual died. (Section 209 (k) of the Social Security Act)

As used in this subsection, the term "parent" means the mother or father of an individual, a stepparent of an individual by a marriage contracted before such individual attained the age of sixteen, or an adopting parent by whom an individual was adopted before he attained the age of sixteen. (Section 202 (f) (3) of the Social Security Act)

\* \* \* A widow shall be deemed to have been living with her husband at the time of his death if they were both members of the same household on the date of his death, or she was receiving regular contributions from him toward her support on such date, or he had been ordered by any court to

contribute to her support. (Section 209 (n) of the Social Security Act)

A child shall be deemed dependent upon a father or adopting father, or to have been dependent upon such individual at the time of the death of such individual, unless, at the time of such death, or, if such individual was living, at the time such child's application for child's insurance benefits was filed, such individual was not living with or contributing to the support of such child and—

(A) Such child is neither the legitimate nor adopted child of such individual, or

(B) Such child has been adopted by some other individual, or

(C) Such child was living with and was chiefly supported by such child's stepfather. (Section 202 (c) (3) of the Social Security Act)

A child shall be deemed dependent upon a mother, adopting mother, or stepparent, or to have been dependent upon such individual at the time of the death of such individual, only if, at the time of such death, or, if such individual was living, at the time such child's application for child's insurance benefits was filed, no parent other than such individual was contributing to the support of such child and such child was not living with its father or adopting father. (Section 202 (c) (4) of the Social Security Act)

In determining whether an applicant is the wife, widow, child, or parent of a fully insured or currently insured individual for purposes of this title, the Board shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such insured individual is domiciled at the time such applicant files application; or, if such insured individual is dead, by the courts of the State in which he was domiciled at the time of his death, or if such insured individual is or was not so domiciled in any State, by the courts of the District of Columbia. Applicants who according to such law would have the same status relative to taking intestate personal property as a wife, widow, child, or parent shall be deemed such. (Section 209 (m) of the Social Security Act)

§ 237.302 *Applicable State law and status—*(a) *Applicable State law defined.* "Applicable State law" is the law which the courts of the domicile of the deceased employee, on the basis of whose insured status an individual claims an insurance annuity or lump sum under this part, would apply in deciding who is a widow, child, or parent, when determining the devolution of intestate personal property. The deceased employee's domicile is determined as of the time of his death. If the deceased employee was not domiciled in any State, applicable State law is the law which the courts of the District of Columbia would apply when determining the devolution of such property.

(b) *Status under applicable State law.* An individual who is not a widow, child, or parent under applicable State law, but who is treated as such under such law for the purpose of determining the devolution of intestate personal property has the same "status" as a widow, child, or parent. Thus, under the law of some States, an individual who is not a widow because her supposed marriage was void, may nevertheless be treated as a widow under such law, under certain strictly limited conditions. Such an individual has the "status" of a widow.

§ 237.303 *Definition of "widow"* An individual is the "widow" of a deceased

employee, as that term is used in section 5 of the act (except as stated in § 237.504 (b) under section 5 (f) of the act), if she meets the following requirements:

(a) She is the widow of the deceased employee, or has the same status as a widow, under applicable State law, and

(b) She either (1) is the mother of the deceased employee's son or daughter, or (2) was married to the deceased employee (became his wife, or acquired the status as such, under applicable State law) prior to the beginning of the twelfth month before the month in which he died (an individual is the mother of a deceased employee's son or daughter, within the meaning of this paragraph, if a son or daughter was born to her and such deceased employee, even though such son or daughter died before an application was filed which involved the determination of whether such individual is a "widow," and even though such son or daughter was born after the death of such employee) and

(c) She was living with her husband employee at the time of his death.

#### § 237.304 *Definition of "living with."*

A widow shall be deemed to have been living with her husband at the time of his death, if, at such time, any one of the three following conditions existed:

(a) If the husband and wife were at such time members of the same household.

A husband and wife were members of the same household if they were living together, and customarily lived together, in the same place of abode.

A husband and wife who customarily lived together in the same place of abode but who were not actually doing so at such time, may nevertheless be members of the same household, if they were apart only temporarily and intended to resume living together in the same place of abode.

(b) If the wife was at such time receiving regular contributions from her husband toward her support.

Contributions must be substantial, and may be made in cash or other medium. In determining the sufficiency of contributions under this paragraph, the surrounding circumstances with respect to both the time when contributions are made and the amount thereof shall be taken into consideration.

(c) If the husband had, at such time, been ordered by any court to contribute to his wife's support.

This condition is met if the husband was legally obligated to contribute to the support of his wife at such time by virtue of any order, judgment, or decree of a court of competent jurisdiction, regardless of whether he actually made any such contribution. In determining the existence of such a legal obligation, any such order, judgment, or decree shall be considered as in full force and effect unless it had expired or had been vacated.

§ 237.305 *Definition of "child."* An individual is a "child," as that term is used in section 5 of the act (except as stated in § 237.504 (b) under section 5 (f) of the act), if he falls in one of the three classes described in paragraph (a)

of this section, and if he meets all four of the requirements set out in paragraph (b) of this section.

(a) *Classes.* For the purposes of this section, individuals are classified as follows:

(1) *Children.* A son or daughter (by blood) of a deceased employee, who is the child of such deceased employee, or has the same status as a child, under applicable State law, is a "child" of such employee.

(2) *Stepchildren.* An individual who is the stepchild of a deceased employee by virtue of a marriage valid under applicable State law, which was contracted prior to the beginning of the twelfth month before the month in which the employee died, is a "child" of such employee.

(3) *Adopted children.* An individual who was legally adopted by a deceased employee, in accordance with applicable State law, prior to the beginning of the twelfth month before the month in which the employee died, is a "child" of such employee.

(b) *Requirements.* An individual must meet all four of the following requirements in order to be a "child" for the purposes of this section:

(1) The individual must have been dependent upon his parent employee at the time of the employee's death.

(2) The individual shall not have been adopted after the employee's death.

(3) The individual shall be unmarried.

(4) The individual shall be less than 18 years of age.

§ 237.306 *Definition of "dependent upon"*—(a) *Dependency upon a father or adopting father.* An individual who has filed an application for a child's insurance annuity based on the insured status of a deceased father or adopting father, who was an employee, is deemed to have been dependent upon such deceased employee at the time of the employee's death if, at such time, such employee was either living with or contributing to the support of such individual.

Even though the deceased employee was not living with or contributing to the support of the individual at the time of the employee's death, the individual is deemed to have been dependent upon such employee at such time if the individual:

(1) Was either the legitimate or adopted child of such employee; and

(2) Was not then the adopted child of someone else; and

(3) Was not living with and being chiefly supported by the stepfather of the individual.

(b) *Dependency upon a mother adopting mother or stepparent.* An individual who has filed an application for a child's insurance annuity based on the insured status of a deceased mother, adopting mother, or stepparent, who was an employee, is deemed to have been dependent upon such deceased employee at the time of the employee's death if, at such time, both of the following conditions existed:

(1) Neither the father nor adopting father of the individual was contributing to his support, and

(2) The individual was not living with his father or adopting father.

§ 237.307 *Definition of "parent."* An individual is a "parent" as that term is used in section 5 of the act (except as stated in § 237.504 (b) under section 5 (f) of the act), if he falls in one of the three classes described in paragraph (a) of this section, and if he meets both of the requirements set out in paragraph (b) of this section.

(a) *Classes.* For the purposes of this section, individuals are classified as follows:

(1) *Parents.* A mother or father (by blood) of a deceased employee, who is the parent of such employee, or has the same status as a parent, under applicable State law, is a "parent" of such employee.

(2) *Stepparents.* An individual who is a stepparent of a deceased employee by reason of a marriage valid under applicable State law, which was contracted before such employee attained the age of 16, is a "parent" of such employee.

(3) *Adopting parents.* An individual by whom a deceased employee was legally adopted, in accordance with applicable State law, before the employee attained the age of 16, is a "parent" of such employee.

(b) *Requirements.* An individual must meet both of the following requirements in order to be a "parent" for the purposes of this section:

(1) The individual must have been wholly dependent upon and supported by the deceased employee at the time of the employee's death.

(2) The individual must file proof of dependency and support, within the meaning of subparagraph (1) of this paragraph, within

(i) two years after the date of the death of the employee, or

(ii) six months after January 1, 1947 (see § 237.905)

§ 237.308 *Definition of "wholly dependent upon and supported by."* An individual was "wholly dependent upon and supported by" a deceased employee at the time of the employee's death if, at that time, such individual was supported by such employee and

(a) Had no income or means of support other than the income or support received from such employee; or

(b) Had only inconsequential income or means of support other than that received from such employee.

#### SUBPART D—INSURANCE ANNUITY PAYMENTS TO SURVIVORS

##### § 237.401 *Statutory provisions.*

*Widow's Insurance Annuity.* A widow of a completely insured employee, who will have attained the age of sixty-five, shall be entitled during the remainder of her life or, if she remarries, then until remarriage to an annuity for each month equal to three-fourths of such employee's basic amount. (Section 8 (a) of the Act)

*Widow's Current Insurance Annuity.* A widow of a completely or partially insured employee, who is not entitled to an annuity under subsection (a) and who at the time of filing an application for an annuity under this subsection will have in her care a child of such employee entitled to receive

an annuity under subsection (c) shall be entitled to an annuity for each month equal to three-fourths of the employee's basic amount. Such annuity shall cease upon her death, upon her remarriage, when she becomes entitled to an annuity under subsection (a), or when no child of the deceased employee is entitled to receive an annuity under subsection (c), whichever occurs first. (Section 5 (b) of the Act)

*Child's Insurance Annuity.* Every child of an employee who will have died completely or partially insured shall be entitled, for so long as such child lives and meets the qualifications set forth in paragraph (1) of subsection (1), to an annuity for each month equal to one-half of the employee's basic amount. (Section 5 (c) of the Act)

*Parent's Insurance Annuity.* Each parent, sixty-five years of age or over, of a completely insured employee, who will have died leaving no widow and no child, shall be entitled, for life, or, if such parent remarries after the employee's death, then until such remarriage, to an annuity for each month equal to one-half of the employee's basic amount. (Section 5 (d) of the Act)

"When there is more than one employee with respect to whose death a parent or child is entitled to an annuity for a month, such annuity shall be one-half of whichever employee's basic amount is greatest. (Section 5 (e) of the Act)

*Correlation of payments.* (1) An individual, entitled on applying therefor to receive for a month before January 1, 1947, an insurance benefit under the Social Security Act on the basis of an employee's wages, which benefit is greater in amount than would be an annuity for such individual under this section with respect to the death of such employee, shall not be entitled to such annuity.

(2) A widow or child, otherwise entitled to an annuity under this section, shall be entitled only to that part of such annuity for a month which exceeds the total of any retirement annuity, and insurance benefit under the Social Security Act to which such widow or child would be entitled for such month on proper application therefor. A parent, otherwise entitled to an annuity under this section, shall be entitled only to that part of such annuity for a month which exceeds the total of any other annuity under this section, retirement annuity, and insurance benefit under the Social Security Act to which such parent would be entitled for such month on proper application therefor. (Section 5 (g) of the Act)

*When annuities begin and end.*—No individual shall be entitled to receive an annuity under this section for any month before January 1, 1947. An application for any payment under this section shall be made and filed in such manner and form as the Board prescribes. An annuity under this section for an individual otherwise entitled thereto shall begin with the month in which such individual filed an application for such annuity: *Provided*, That such individual's annuity shall begin with the first month for which he will otherwise have been entitled to receive such annuity if he files such application prior to the end of the third month immediately succeeding such month. No application for an annuity under this section filed prior to three months before the first month for which the applicant becomes otherwise entitled to receive such annuity shall be accepted. No annuity shall be payable for the month in which the recipient thereof ceases to be qualified therefor. (Section 5 (j) of the Act)

§ 237.402 *Widow's insurance annuity*—(a) *Conditions of entitlement.* Subject to the provisions of § 237.403, an individual is entitled to a widow's insurance annuity if she:

(1) Is the widow of a deceased employee who, at the time of his death, was completely insured; and

(2) Was not entitled, and would not have been entitled even if she had applied therefor, to receive, for a month before January 1, 1947, an insurance benefit under the Social Security Act based on the deceased employee's wages and in an amount greater than the widow's insurance annuity would be; and

(3) Has attained the age of 65; and

(4) Has not remarried.

(b) *Duration of annuity.* Subject to the provisions of § 237.406, an individual is entitled to a widow's insurance annuity for each month beginning with the first month after December, 1946, in which all of the conditions of entitlement are satisfied. The last month for which she is entitled to such annuity is the month immediately preceding the first month in which either of the following events occurs:

(1) She remarries; or

(2) She dies.

(c) *Rate of annuity.* A widow's insurance annuity for a month is an amount equal to three-fourths of the basic amount of her deceased husband. However, if the widow is entitled, or would have been entitled had she applied therefor, to a retirement annuity, or to an insurance benefit under the Social Security Act, for such month, she shall be entitled only to that part of her insurance annuity for that month which exceeds the total of such retirement annuity and insurance benefit.

§ 237.403 *Widow's current insurance annuity—(a) Conditions of entitlement.* Subject to the provisions of § 237.406 of this chapter, an individual is entitled to a widow's current insurance annuity if she:

(1) Is the widow of a deceased employee who, at the time of his death, was completely insured or partially insured;

(2) Was not entitled, and would not have been entitled even if she had applied therefor, to receive, for a month before January 1, 1947, an insurance benefit under the Social Security Act based on the deceased employee's wages and in an amount greater than the widow's current insurance annuity would be; and

(3) Has not remarried; and

(4) Is not entitled to a widow's insurance annuity; and

(5) Has in her care, at the time of filing her application, a child of her deceased husband entitled to receive a child's insurance annuity.

(b) *Duration of annuity.* Subject to the provisions of § 237.406, an individual is entitled to a widow's current insurance annuity for each month beginning with the first month after December 1946, in which all of the conditions of entitlement are satisfied. The last month for which she is entitled to such annuity is the month immediately preceding the first month in which any of the following events occurs:

(1) No child of her deceased husband is entitled to a child's insurance annuity; or

(2) She becomes entitled to a widow's insurance annuity; or

(3) She remarries; or

(4) She dies.

(c) *Rate of annuity.* A widow's current insurance annuity for a month is an amount equal to three-fourths of the basic amount of her deceased husband. However, if the widow is entitled, or would have been entitled had she applied therefor, to a retirement annuity, or to an insurance benefit under the Social Security Act, for such month, she shall be entitled only to that part of her current insurance annuity for that month which exceeds the total of such retirement annuity and insurance benefit.

(d) *Meaning of "in her care."* A widow has a child "in her care" within the meaning of paragraph (a) (5) of this section if she takes parental responsibility for the welfare and care of such child, even though she does not live in the same home with the child.

§ 237.404 *Child's insurance annuity—*

(a) *Conditions of entitlement.* Subject to the provisions of § 237.406, an individual is entitled to a child's insurance annuity if he:

(1) Is a child of a deceased employee who, at the time of his death, was completely insured or partially insured; and

(2) Was not entitled, and would not have been entitled even if he had applied therefor, to receive, for a month before January 1, 1947, an insurance benefit under the Social Security Act based on the deceased employee's wages and in an amount greater than the child's insurance annuity would be.

(b) *Duration of annuity.* Subject to the provisions of § 237.406, an individual is entitled to a child's insurance annuity for each month beginning with the first month after December, 1946, in which all of the conditions of entitlement are satisfied. If the child is born after the death of the employee on whose insured status the child's insurance annuity is based, the first month for which the child may be entitled to such an annuity is the month in which such child is born. The last month for which an individual is entitled to a child's insurance annuity is the month immediately preceding the first month in which any of the following events occurs:

(1) He dies; or

(2) He marries; or

(3) He is adopted; or

(4) He attains the age of 18.

(c) *Rate of annuity.* A child's insurance annuity for a month is an amount equal to one-half of the basic amount of the deceased employee. If there is more than one deceased employee on the basis of whose insured status an individual is entitled to a child's insurance annuity, the annuity is equal to one-half of the basic amount of whichever employee's basic amount is greatest. If the child is entitled, or would have been entitled had he applied therefor, to an insurance benefit under the Social Security Act, for such month, he shall be entitled only to that part of his insurance annuity for that month which exceeds such insurance benefit.

§ 237.405 *Parent's insurance annuity—(a) Conditions of entitlement.* Subject to the provisions of § 237.406,

an individual is entitled to a parent's insurance annuity if such individual:

(1) Is the parent of a deceased employee, and such employee at the time of his death was completely insured and was survived neither by a widow nor a child; and

(2) Was not entitled, and would not have been entitled even if he had applied therefor, to receive, for a month before January 1, 1947, an insurance benefit under the Social Security Act based on the deceased employee's wages and in an amount greater than the parent's insurance annuity would be; and

(3) Has attained the age of 65; and

(4) Has not remarried since the death of the deceased employee. One or more parents of a deceased employee who had a completely insured status may become entitled to insurance annuities hereunder.

(b) *Duration of annuity.* Subject to the provisions of § 237.406 of this chapter, an individual is entitled to a parent's insurance annuity for each month beginning with the first month after December, 1946, in which all of the conditions of entitlement are satisfied. The last month for which such individual is entitled to such annuity is the month immediately preceding the first month in which any of the following events occurs:

(1) He dies; or

(2) He remarries.

(c) *Rate of annuity.* A parent's insurance annuity for a month is an amount equal to one-half of the basic amount of the deceased employee. If there is more than one deceased employee on the basis of whose insured status an individual is entitled to a parent's insurance annuity, the annuity is equal to one-half of the basic amount of whichever employee's basic amount is greatest. If the parent is entitled, or would have been entitled had he applied therefor, to any other insurance annuity under this part, to a retirement annuity, or to an insurance benefit under the Social Security Act, for such month, he shall be entitled only to that part of his parent's insurance annuity for that month which exceeds the total of such other insurance annuity, retirement annuity, and insurance benefit.

§ 237.406 *Beginning and ending of insurance annuities—(a) Beginning.* An insurance annuity under this subpart shall begin with the first month, after December, 1946, with respect to which all the conditions of entitlement for such annuity, as set out in the preceding sections of this subpart, are satisfied, if the individual shall have filed an application for such annuity, as prescribed in subpart H, either:

(1) In such month; or

(2) In the three months immediately preceding such month; or

(3) In the three months immediately succeeding such month.

Otherwise, such annuity shall begin with the month, after December, 1946, in which the individual files an application therefor, as prescribed in Subpart H, and with respect to which month all the conditions of entitlement for such annuity,

as set out in the preceding sections of this subpart, are satisfied.

(b) *Ending.* No insurance annuity under this subpart shall be payable for the month in which the conditions of entitlement for such annuity, as set out in the preceding sections of this subpart, cease to be satisfied.

#### SUBPART E—LUMP-SUM DEATH PAYMENTS

##### § 237.501 *Statutory provisions.*

*Lump-sum payment.* Upon the death, on or after January 1, 1947, of a completely or partially insured employee who will have died leaving no widow, child, or parent who would on proper application therefor be entitled to receive an annuity under this section for the month in which such death occurred, there shall be paid a lump sum of eight times the employee's basic amount to the following person (or if more than one there shall be distributed among them) whose relationship to the deceased employee will have been determined by the Board, and who will have been living on the date of such determination: to the widow or widower of the deceased; or, if no such widow or widower be then living, to any child or children of the deceased and to any other person or persons who, under the intestacy law of the State where the deceased will have been domiciled, will have been entitled to share as distributees with such children of the deceased, in such proportions as is provided by such law; or, if no widow or widower and no such child and no such other person be then living, to the parent or parents of the deceased, in equal shares. A person who is entitled to share as distributee with an above-named relative of the deceased shall not be precluded from receiving a payment under this subsection by reason of the fact that no such named relative will have survived the deceased or of the fact that no such named relative of the deceased will have been living on the date of such determination. If none of the persons described in this subsection be living on the date of such determination, such amount shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have been paid the expenses of burial of the deceased. If a lump sum would be payable to a widow, child, or parent under this subsection except for the fact that a survivor will have been entitled to receive an annuity for the month in which the employee will have died, but within one year after the employee's death there will not have accrued to survivors of the employee, by reason of his death annuities which, after all deductions pursuant to paragraph (1) of subsection (1) will have been made, are equal to such lump sum, a payment to any then surviving widow, children, or parents shall nevertheless be made under this subsection equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions. No payment shall be made to any person under this subsection, unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of the deceased employee, except that if the deceased employee is a person to whom section 2 of the Act of March 7, 1942 (56 Stat. 143, 144), is applicable such two years shall run from the date on which the deceased employee, pursuant to said Act, is determined to be dead, and for all other purposes of this section such employee, so long as it does not appear that he is in fact alive, shall be deemed to have died on the date determined pursuant to said Act to be the date or presumptive date of death. (Section 5 (f) of the Act.)

§ 237.502 *Lump-sum death payments—(a) Conditions of payment.* A

No. 61—3

lump sum is payable to one or more of the persons described in paragraph (b) of this section if:

(1) An employee has died, on or after January 1, 1947, and was completely insured or partially insured at the time of his death; and

(2) Such deceased employee was not survived by a widow, child, or parent (see § 237.504 (a)), who, upon application therefor, would be entitled to receive a widow's insurance annuity, a widow's current insurance annuity, a child's insurance annuity, or a parent's insurance annuity, upon the basis of the insured status of such employee, for the month in which such employee died; and

(3) An application (see Subpart H) for such lump sum has been filed within two years following the death of such employee (see § 237.502 (b)).

The lump sum is not in lieu of, and does not affect, later entitlement of survivors to insurance annuities.

(b) *Persons entitled to receive payments—(1) Survivors of deceased.* The following person or persons whose relationship to the deceased employee is determined by the Board, and who are living at the time of such determinations, are, in the order named, entitled to a lump sum under the conditions stated in paragraph (a) of this section:

(i) The widow or widower (see § 237.504 (b)) of such employee. If there is no such widow or widower, the lump sum is payable to

(ii) The child or children (see § 237.504 (b)) of such employee and any other person or persons who are, under the intestacy law of the State where the deceased was domiciled, entitled to share with such child or children in the distribution of intestate personal property of such employee. Persons entitled to share with such child or children are not precluded from receiving the lump sum by reason of the fact that no child survived such employee or was living at the time of the Board's determination of relationship. If there is no such child or other person, then the lump sum is payable to

(iii) The parent or parents (see § 237.504 (b)) of such employee.

(2) *Persons equitably entitled.* If none of the persons described under subparagraph (1) of this paragraph is living on the date of the Board's determination of relationship, the lump sum will be payable to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the burial expenses of the employee.

(c) *Amount of payment.* The lump sum to which a widow, widower, child (or distributee with a child), or parent, is entitled under paragraph (b) of this section is an amount equal to eight times the basic amount of the deceased employee. Where there is more than one child or person entitled to share as distributee with a child, the lump sum shall be divided among them in the proportions provided by the intestacy laws of the State where the deceased employee was domiciled. Where there is

more than one parent the lump sum shall be divided equally between such parents.

Where an applicant (other than a person named in paragraph (b) (1) of this section) is equitably entitled to a lump sum under paragraph (b) (2) of this section, the amount payable to him will be determined as follows:

(1) If no person other than such applicant is, or becomes, equitably entitled under paragraph (b) (2) of this section, the amount payable will be an amount equal to the amount of burial expenses paid by the applicant, or eight times the basic amount of the deceased, whichever is less.

(2) If two or more persons are, or become, equitably entitled under paragraph (b) (2) of this section, the amount payable to any such applicant is an amount equal to that proportion of eight times the basic amount of the deceased which the amount of burial expenses paid by such applicant bears to the total amount of burial expenses paid by all persons equitably entitled, but in no event shall the amount paid to such applicant exceed the amount of burial expenses paid by him.

§ 237.503 *Payment when lump sum exceeds insurance annuities accrued—*

(a) *Conditions of payment.* The payment provided for in this section shall be made to one or more of the persons described in paragraph (b) of this section if:

(1) A lump sum would have been payable to a widow, child, or parent (see § 237.504 (b)) under § 237.502, except for the fact that a survivor was entitled to receive an insurance annuity for the month in which the employee died (see § 237.502 (a) (2)) and

(2) Within one year after the employee's death there did not accrue to his survivors, by reason of his death, insurance annuities which, after all deductions required by § 237.702 were made, were equal to the lump sum referred to in subparagraph (1) of this paragraph, and

(3) An application (see subpart H of this part) for such payment has been filed within two years following the death of such employee (see § 237.502 (b)).

The payment provided for in this section is not in lieu of, and does not affect, later entitlement of survivors to insurance annuities.

(b) *Persons entitled to receive payment.* The payment provided for in this section shall be made to the widow, children, or parents of the deceased employee surviving at the expiration of one year after the employee's death.

(c) *Amount of payment.* The payment to be made under this section is an amount equal to the excess of the lump sum referred to in paragraph (a) (1) of this section over the insurance annuities which accrued to survivors within one year after the employee's death, as such annuities may have been reduced by any deductions required by § 237.702 (see paragraph (a) (2) of this section).

§ 237.504 *Meaning of terms.* (a) The terms "widow," "child," and "parent" as they first appear in section 5 (f) of the act (see § 237.502 (a) (2)), are

used as defined in §§ 237.303, 237.305, and 237.307, respectively.

(b) The meaning of the terms "widow," "child" (or "children") and "parent" (or "parents") except as they first appear in section 5 (f) of the act, and of the term "widower" as used in such section 5 (f) is determined by reference to applicable State law. An individual is such a "widow," "widower," "child," or "parent" of a deceased employee if he is the widow, widower, child, or parent of the deceased employee, or has the same status as such, under applicable State law, without regard to the definitions referred to in paragraph (a) of this section.

#### SUBPART F—MAXIMUM AND MINIMUM INSURANCE ANNUITY TOTALS

##### § 237.601 *Statutory provisions.*

*Maximum and minimum annuity totals.* Whenever according to the provisions of this section as to annuities, payable for a month with respect to the death of an employee, the total of annuities is more than \$20 and exceeds either (a) \$120, or (b) an amount equal to twice such employee's basic amount, or with respect to employees other than those who will have been completely insured solely by virtue of subsection (1) (7) (iii), such total exceeds (c) an amount equal to 80 per centum of his average monthly remuneration, whichever of such amounts is least, such total of annuities shall, prior to any deductions under subsection (1), be reduced to such least amount or to \$20, whichever is greater. Whenever such total of annuities is less than \$10, such total shall, prior to any deductions under subsection (1), be increased to \$10. (Section 5 (h) of the Act)

§ 237.602. *Application of maximum and minimum and basis for computation—(a) Application of maximum and minimum.* The reductions and increases provided for in this subpart apply only to insurance annuities for survivors. Lump sums under section 5 (f) of the act are not subject to reductions or increases hereunder.

(b) *Basis for computing reductions and increases.* Whether there is to be a reduction or increase in any insurance annuity or annuities, and the extent of such reduction or increase, depends upon the total amount of insurance annuities for a month as calculated under section 5 of the act with respect to the insured status of a deceased employee.

§ 237.603 *Reduction—(a) Conditions requiring reduction.* Reductions are made only when there are two or more insurance annuities for a month based upon the insured status of a deceased employee, and when the total amount of such annuities for such month, as calculated under subpart D, is more than \$20 and also

(1) In any case in which the employee's basic amount was computed in accordance with § 237.202 (b) (2) or (3) exceeds either:

(i) \$120, or  
(ii) An amount equal to twice the basic amount of the employee;

(2) In any case other than one in which the employee's basic amount was computed in accordance with § 237.202 (b) (2) or (3), exceeds either

(i) \$120, or

(ii) An amount equal to twice the basic amount of the employee, or

(iii) An amount equal to eighty per cent of the average monthly remuneration of the deceased employee.

(b) *Amount of reduction.* If the conditions described in paragraph (a) of this section exist, each of the insurance annuities must be proportionately reduced so that the total of the insurance annuities will be whichever is the least of the amounts stated in subdivisions (i) and (ii) of paragraph (a) (1) of this section, in cases to which that paragraph is applicable, or whichever is the least of the amounts stated in subdivisions (i), (ii) and (iii) of paragraph (a) (2) of this section, in cases to which that paragraph is applicable. If, however, such least amount is under \$20, the total is reduced only to \$20.

§ 237.604 *Increase—(a) Conditions requiring increase.* An increase is made when the insurance annuity or total of insurance annuities for a month calculated under Subpart D on the basis of the insured status of a deceased employee is less than \$10.

(b) *Amount of increase.* If the condition described in paragraph (a) of this section exists, the insurance annuity or total of insurance annuities is increased to \$10.

§ 237.605 *Monthly application of provisions.* The total amount of insurance annuities based on the insured status of a deceased employee, as calculated under Subpart D, may be different in one month than in another. Accordingly, a reduction or increase may be required in one month and not in another, or the amount of the reduction or increase may be greater or less in one month than in another.

§ 237.606 *Relation to provisions for deductions and adjustments.* Reductions and increases under this subpart are made prior to making any deductions which may be required under Subpart G and prior to making any adjustments under Part 255 of this chapter.

#### SUBPART G—DEDUCTIONS

##### § 237.701 *Statutory provisions.*

*Deductions from Annuities—(1)* Deductions shall be made from any payments under this section to which an individual is entitled, until the total of such deductions equals such individual's annuity or annuities under this section for any month in which such individual:

(i) Will have rendered compensated service within or without the United States to an employer;

(ii) Will have rendered service for wages of not less than \$25;

(iii) If a child under eighteen and over sixteen years of age, will have failed to attend school regularly and the Board finds that attendance will have been feasible; or

(iv) If a widow otherwise entitled to an annuity under subsection (b) will not have had in her care a child of the deceased employee entitled to receive an annuity under subsection (c);

(2) The total of deductions for all events described in paragraph (1) occurring in the same month shall be limited to the amount of such individual's annuity or annuities for that month. Such individual (or anyone in receipt of an annuity in his behalf) shall

report to the Board the occurrence of any event described in paragraph (1).

(3) Deductions shall also be made from any payments under this section with respect to the death of an employee until such deductions total:

(i) Any death benefit, paid with respect to the death of such employee, under sections 5 of the Retirement Acts (other than a survivor annuity pursuant to an election)

(ii) Any lump sum paid, with respect to the death of such employee, under title II of the Social Security Act, or under section 203 of the Social Security Act in force prior to the date of the Social Security Act Amendments of 1939;

(iii) Any lump sum paid to such employee under section 204 of the Social Security Act in force prior to the date of the enactment of the Social Security Act amendments of 1939, provided such lump sum will not previously have been deducted from any insurance benefit paid under the Social Security Act; and

(iv) An amount equal to 1 per centum of any wages paid to such employee for services performed in 1939, and subsequent to his attaining age sixty-five, with respect to which the taxes imposed by section 1400 of the Internal Revenue Code will not have been deducted by his employer from his wages or paid by such employer, provided such amount will not previously have been deducted from any insurance benefit paid under the Social Security Act.

(4) The deductions provided in this subsection shall be made in such amounts and at such time or times as the Board shall determine. Decreases or increases in the total of annuities payable for a month with respect to the death of an employee shall be equally apportioned among all annuities in such total. (Section 5 (l) of the Act).

§ 237.702 *Deductions because of compensated service, etc.* Section 5 (l) (1) of the act provides for deductions from an individual's insurance annuity or annuities upon the occurrence of certain events, which are enumerated in paragraphs (a), (b), (c), and (d) of this section.

(a) *Compensated service.* If an individual, in any month for which he is entitled to an insurance annuity, renders compensated service (see Parts 220 and 222 of this chapter), within or without the United States, to an employer (see part 202 of this chapter), deductions are made from any payments under this part to which such individual is entitled. The amount to be deducted is equal to the amount of such individual's insurance annuity or annuities for the month in which the compensated service was rendered.

Since the amount to be deducted is measured by the insurance annuity or total of insurance annuities for the month in which the compensated service was rendered, it is not material in what month the compensation was paid.

(b) *Service for wages.* If an individual, in any month for which he is entitled to an insurance annuity, renders service for wages (see section 209 (e) of the Social Security Act as amended) of \$25 or more, deductions are made from any payments under this part to which such individual is entitled. The amount to be deducted is equal to the amount of such individual's insurance annuity or annuities for the month in which the service for wages was rendered.



Since the amount to be deducted is measured by the insurance annuity or total of insurance annuities for the month in which the service for wages was rendered, it is not material in what month the wages of \$25 or more were paid. In determining, for the purpose of this section, whether an individual has rendered services for "wages" of \$25 or more, the \$3,000 limitation provisions of section 209 (a) of the Social Security Act do not apply.

(c) *Failure to attend school.* If a child under 18 and over 16 years of age fails, in any month for which he is entitled to an insurance annuity, to attend school regularly, and the Board finds that attendance was feasible, deductions are made from any payments under this part to which such child is entitled. The amount to be deducted is equal to the amount of his insurance annuity or annuities for the month in which he failed to attend school regularly.

(d) *Failure of widow to have a child in her care.* If, in a month for which she is otherwise entitled to a widow's current insurance annuity, a widow does not have in her care a child of her deceased husband entitled to a child's insurance annuity for such month, deductions are made from any payments under this part to which such widow is entitled. The amount to be deducted is equal to the amount of the widow's current insurance annuity to which she was entitled for the month in which she did not have such a child in her care.

The fact that a child's insurance annuity for a particular month is withheld to effect a deduction under any of the other paragraphs of this section, or under § 237.703, or an adjustment under part 255 of this chapter, does not affect the right of a widow, who has the child in her care, to a widow's current insurance annuity, since the child is nevertheless "entitled" to the child's insurance annuity.

(e) *Manner of making deductions.* Deductions are made by withholding insurance annuities in whole or in part, depending upon the amount to be deducted. If the amount to be deducted is not withheld from the insurance annuity or annuities for the month in which the event occurred which occasioned the deduction (if, for example, the occurrence has not been brought to the attention of the Board), such amount will be withheld from the insurance annuity or annuities for one or more subsequent months. The total amount to be deducted may, therefore, at the time of withholding, be greater or less than any insurance annuity or annuities for a month, from which such amount is to be withheld.

When it is determined that a deduction is required under paragraph (a), (b), (c) or (d) of this section, no insurance annuity to which the individual in question is entitled for any month will be paid until a total amount equal to the amount to be deducted has been withheld. If the amount of the required deduction is less than any such insurance annuity, or the total of such insurance annuities, for a month, the

amount to be deducted will be withheld from such insurance annuity or annuities.

(f) *Accumulation of deductions.* Section 5 (1) (2) of the act prevents duplication of deductions under paragraphs (a) (b) (c), or (d) of this section, by reason of the occurrence in one month of more than one of the events enumerated in those paragraphs. If more than one such event occurs in a month, the total amount of the deductions is the same as if only one such event had occurred. Section 5 (1) (2) of the act has no application to any other deductions or adjustments under the act (see paragraph (h) of this section).

If, however, any of the events occasioning a deduction under paragraph (a) (b) (c) or (d) of this section occurs in more than one month, the total amount to be deducted is equal to the sum of the deductions for all months in which any such event occurred.

(g) *Relation to maximum and minimum insurance annuity totals.* In effecting a deduction, no amount can be considered as having been withheld from an insurance annuity for a particular month, which is in excess of the amount of such insurance annuity as reduced or increased (if required) under section 5 (a) of the act (see subpart F). Likewise, the amount of an insurance annuity by which a deduction is measured (i. e., an insurance annuity for the month in which the event occasioning the deduction occurred) is the amount of such insurance annuity as so reduced or increased.

(h) *Relation to other provisions for deductions and adjustments.* A deduction required under section 5 (1) (1) of the act is made prior to and in addition to any deductions under section 5 (1) (3) of the act (see § 237.703), and prior to and in addition to any adjustments under Part 255 of this chapter.

(i) *Reports to Board of events occasioning deductions.* Section 5 (1) (2) of the act imposes upon an individual the obligation to report to the Board the occurrence of any of the events enumerated in paragraph (a) (b), (c), or (d) of this section, if such individual is in receipt of an insurance annuity or insurance annuities (on his own behalf or on behalf of another) from which a deduction is to be made under such paragraphs.

§ 237.703 *Deductions because of death-benefit payments, etc.* Section 5 (1) (3) of the act provides for certain deductions from any insurance annuities, or lump-sum death payments, under section 5, on the basis of the insured status of a deceased employee. The basis for, and the amount of, each of these deductions are set out in paragraphs (a), (b), (c), and (d) of this section.

(a) *Death benefits under Retirement Acts.* Prior to the amendments approved July 31, 1946, effective January 1, 1947, with regard to the matters here involved, section 5 of the Railroad Retirement Act of 1935, and section 5 of the Railroad Retirement Act of 1937, provided for certain payments upon the death of an em-

ployee. Those provisions are superseded, effective January 1, 1947, by the provisions of Section 5 of the Railroad Retirement Act as amended. The amendatory act provides that payments upon death as provided in section 5 of the 1935 and 1937 Acts, other than survivor annuities pursuant to an election, shall be made only with respect to deaths occurring before January 1, 1947. The total amount paid under the unamended section 5 with respect to the death of an employee, except survivor annuity payments made pursuant to an election, must be deducted from any insurance annuities under this part based on the insured status of that deceased employee.

(b) *Lump-sum death payments under Social Security Act.* Prior to the amendments approved August 10, 1939, Section 203 of the Social Security Act provided for certain payments upon the death of an individual. Under that act as amended in 1939, Title II provides for lump-sum death payments. The total amount of any such lump-sum death payments under the Social Security Act, whether before or after the 1939 amendments, with respect to the death of an employee, must be deducted from any insurance annuities under this part based on the insured status of that deceased employee.

(c) *Lump-sum payments to employees under Social Security Act prior to 1939 amendments.* Prior to the amendments approved August 10, 1939, section 204 of the Social Security Act provided for certain lump-sum payments to aged employees not qualified for benefits. As amended in 1939, the Social Security Act provides that any payments which were made under section 204, as it was prior to the amendments, are to be deducted from insurance benefits under the amended Social Security Act. To the extent that any payments were made to an employee under section 204 prior to the amendments, and have not since been deducted from insurance benefits paid under the Social Security Act as amended in 1939, such payments must be deducted from any insurance annuities, or lump-sum death payments, made under this part on the basis of the insured status of such employee.

(d) *Percentage of certain wages.* Section 907 of the Social Security Act amendments of 1939 provides for deductions from benefits and lump-sum death payments under that Act in cases in which the taxes imposed by section 1400 of the Internal Revenue Code with respect to a wage earner's employment in 1939 and subsequent to his attaining the age of 65 have neither been deducted by his employer from the wages paid him for services in such employment nor paid by such employer. Under section 907 the total amount to be deducted is an amount equal to one per cent of such wages with respect to which taxes have neither been deducted nor paid by the employer. To the extent that the deduction provided for in section 907 has not been made from insurance benefits paid under the Social Security Act, it must be made from any insurance annuities, or lump-sum death payments, made un-

der this part on the basis of the insured status of the employee.

(e) *Manner of making deductions.* If more than one person is entitled to any insurance annuity or annuities, or to any lump-sum death payment, under this part, on the basis of the insured status of the same deceased employee, the deduction required under paragraph (a), (b), (c), or (d) of this section is made from the insurance annuity or annuities, or from the share of the lump sum, to which each such person is entitled, in the proportion that his insurance annuity or annuities for a month, or his share of the lump sum, bears to the total of such insurance annuities for a month, or the total of such lump sum.

In any case in which a deduction under paragraph (a) (b) (c) or (d) of this section is to be made from an insurance annuity under this part, such deduction is made in the following manner:

(1) If the individual had been receiving an insurance benefit under the Social Security Act, and ceased to be entitled thereto because of the provisions of section 5 (g) (1) of the Railroad Retirement Act, as amended, the deduction is made by withholding, to the extent hereinafter indicated, the amount designated in such paragraph (a) (b) (c) or (d) of this section, from any such insurance annuity under this part to which such individual is or becomes entitled on the basis of the insured status of the employee referred to in such paragraph. Upon determination that such a deduction is required, there will be withheld from the insurance annuity the amount by which such insurance annuity exceeds the amount of the insurance benefit to which the individual had been so entitled under the Social Security Act; this withholding will be continued until such time as the total of the amounts thus withheld from the insurance annuity equals the amount to be deducted from such insurance annuity.

(2) If the case is not within the purview of subparagraph (1) of this paragraph, the deduction is made by withholding, to the extent hereinafter indicated, the amount designated in such paragraph (a) (b) (c) or (d) of this section, from any such insurance annuity under this part to which such individual is or becomes entitled on the basis of the insured status of the employee referred to in such paragraph. Upon determination that such a deduction is required, no such insurance annuity for any month will be paid until a total amount equal to the amount to be deducted has been withheld. If the amount to be deducted is less than the amount of any such insurance annuity for a month, the amount to be deducted will be withheld from the amount of such insurance annuity.

In any case in which a deduction under paragraph (c) or (d) of this section is to be made from lump-sum death payments under this part, such deduction is made by withholding the amount designated in such paragraph from any such lump-sum death payments to which any individual is or becomes entitled on the basis of the insured status of the employee referred to in such paragraph.

Upon determination that such a deduction is required, no such lump-sum death payment will be paid until a total amount equal to the amount to be deducted has been withheld. If the amount to be deducted is less than the lump sum then payable, the amount to be deducted will be withheld from such lump sum.

(f) *Relation to other provisions.* When deductions are to be made under this section from an insurance annuity or insurance annuities, the amounts to be deducted are measured by and are withheld from the amount of the insurance annuity, or the amounts of the insurance annuities, as reduced or increased under section 5 (h) of the act (see subpart F)

A deduction required under this section is made in addition to any deductions required under section 5 (i) (1) of the act (see § 237.702) and in addition to any adjustment under Part 255 of this chapter.

#### SUBPART H—APPLICATION FOR INSURANCE ANNUITIES AND LUMP SUMS FOR SURVIVORS

§ 237.801 *Statutory provisions.* See section 5 (j) of the act, quoted in § 237.401, and the last sentence of section 5 (f) of the act, quoted in § 237.501.

§ 237.802 *Necessity of application.* No payment shall be made to any person under this part unless application therefor, in such manner and form as the Board prescribes, shall have been filed by or on behalf of such person (whether or not legally competent)

§ 237.803 *Filing date of application.* An application for any payment under this part shall be considered filed with the Board as of the date it is received at an office of the Board, or the date it is delivered into the custody of a duly authorized field agent, specifically authorized to receive custody thereof in the district where delivery is made, whichever date is earlier: *Provided, however* That if, in the adjudication of an application, filed by or on behalf of any person, for a payment under this part, it is determined that such person's interests would be adversely affected by the fact that the application, mailed to the Board, was not received by the Board until the first business day following a Sunday or other non-work day on which the offices of the Board were closed, rather than on such Sunday or other non-work day, such application shall be considered as filed on such Sunday or other non-work day if it is established to the satisfaction of the Board that the application was mailed in sufficient time to have been received by the Board on such Sunday or other non-work day.

§ 237.804 *Record of expressed intention as application.* Where an individual orally or in writing expresses to the Board an intention to claim a payment under this part, either on his own behalf or on behalf of some other person, and it appears that such individual or other person is not eligible, or that his eligibility is so doubtful that the taking of an application upon a prescribed form would not be warranted, the Board shall

so advise such individual and shall also advise him that if he desires he may file an application on a prescribed form to obtain a formal adjudication. Where an application on a prescribed form is not then filed because of doubtful eligibility, the Board shall make and maintain in its files a written record of the expressed intention to claim payment, in all cases in which some possibility of entitlement exists, even though remote. If it is later found that such individual or such other person was eligible for a payment under this part at the time the record was made, this record shall, except where such individual or such other person otherwise indicates, be deemed an application filed with the board as of the date such record was made: *Provided*, That an application on a prescribed form is also furnished to the Board.

Where an individual orally or in writing expresses to the Social Security Administration an intention to claim benefits or a lump sum, either on his own behalf or on behalf of some other person, and notice of such intention is communicated in writing to the Railroad Retirement Board by the Social Security Administration, the Social Security Administration's record of the individual's expressed intention to claim benefits or a lump sum shall, except where such individual or such other person otherwise indicates, be deemed an application filed with the Board as of the date the Social Security Administration's record was made: *Provided*, That such individual or other person was eligible for a payment under this part at the time such record was made; and *Provided further*, That an application on a prescribed form is also furnished to the Board.

§ 237.805 *Limitation on filing.* No application for an insurance annuity under this part filed prior to three months before the first month for which the applicant becomes otherwise entitled to receive such annuity shall be accepted.

§ 237.806 *Filing of application with Social Security Administration.* The claim or application of an individual, filed with the Social Security Administration on or after October 1, 1946, for an insurance benefit or a lump-sum death payment under subsection (c), (d) (e) (f) or (g) of section 202 of title II of the Social Security Act, as amended August 10, 1946, based upon the death of an individual who has had service covered under the Railroad Retirement Act, as amended July 31, 1946, shall be deemed to be an application for the corresponding survivor benefit under subsection (a) (b) (c), (d) or (f) of section 5 of the Railroad Retirement Act, and shall be deemed filed with the Railroad Retirement Board on the date as of which the Social Security Administration certifies that such application is deemed filed with that agency.

#### SUBPART I—MISCELLANEOUS

§ 237.901 *Statutory provisions.* See last sentence of section 5 (f) of the act, quoted in § 237.501.

An annuity under this section which is not in excess of \$5 may, in the discretion of the Board, be paid in a lump sum equal

to its commuted value as the Board shall determine. (Section 5 (1) (4) of the act)

§ 237.902 *Act of March 7 1942 (56 Stat. 143, 144)*—(a) *Provisions.* The act of March 7, 1942 (56 Stat. 143, 144) is entitled "An act to provide for continuing payment of pay and allowances of personnel of the Army, Navy, Marine Corps, and Coast Guard, including the retired and reserve components thereof; the Coast and Geodetic Survey and the Public Health Service, and civilian employees of the executive departments, independent establishments, and agencies, during periods of absence from post of duty, and for other purposes." Section 2 of that act relates to "Any person who is in active service and is officially reported as missing, missing in action, interned in a neutral country, or captured by an enemy." Section 5 of that act provides that "Upon the expiration of twelve months from the date the person is reported as missing, or missing in action, in the absence of an official report of the death of the missing person, the head of the department concerned is authorized to make a finding of death of such person."

(b) *Relation to application for lump-sum death payments.* For the purposes of §§ 237.502 (a) (3) and 237.503 (a) (3) if the deceased employee is a person to whom section 2 of the act of March 7, 1942, is applicable, the two years within which an application must be filed run from the date on which he was determined, under that act, to be dead.

(c) *Relation to other matters.* Except as provided in paragraph (b) of this section, if the deceased employee is a person to whom section 2 of the act of March 7, 1942, is applicable, he is, for all purposes of this part, deemed to have died on the date determined pursuant to that act to be the date or presumptive date of his death, so long as it does not appear that he is in fact alive.

§ 237.903 *Payment of insurance annuity in lump sum.* If an insurance annuity is not more than \$5, it may, in the discretion of the Board, be paid in a lump sum equal to its commuted value as determined by the Board.

§ 237.904 *Meaning of "retirement annuity"* As used in this part the term "retirement annuity" means an employee annuity under the Railroad Retirement Acts.

§ 237.905 *Filing date of proof of dependency and support.* In determining the date as of which the proof of dependency and support required by § 237.307 (b) (2) shall be regarded as having been filed, the provisions of the proviso contained in § 237.803, with regard to applications, shall be applied in like manner with regard to the proof of dependency and support.

By authority of the Board.

Dated: March 21, 1947.

[SEAL] MARY B. LINKINS,  
Secretary of the Board.

[F. R. Doc. 47-2832; Filed, Mar. 26, 1947;  
8:48 a. m.]

## TITLE 24—HOUSING CREDIT

### Chapter III—Federal Savings and Loan Insurance Corporation

[Bulletin 39]

#### PART 0300—ORGANIZATION, PROCEDURE, AND SUBSTANTIVE RULES AND REGULATIONS

##### DELEGATION OF FINAL AUTHORITY

MARCH 24, 1947.

Section 0300.4 of Title 24 of the Code of Federal Regulations is hereby amended by adding at the end thereof the following paragraph:

§ 0300.4 *Delegation of final authority.*

(f) Authority is conferred upon the General Manager or a Deputy General Manager, or such person or persons as may be designated in writing by the General Manager or a Deputy General Manager, to exercise procurement functions (including procurement of personal or other services) by Bulletin No. 38,<sup>1</sup> dated March 24, 1947, to the extent set forth in said bulletin, the authority conferred by said bulletin being subject to conditions, limitations, and exceptions as set forth in said bulletin.

(Sec. 12, Pub. Law 404, 79th Cong., 60 Stat. 244)

[SEAL]

JOHN H. FAHEY,  
Federal Home Loan Bank  
Commissioner.

[F. R. Doc. 47-2876; Filed, Mar. 26, 1947;  
8:52 a. m.]

### Chapter VIII—Office of Housing Expediter

[Housing Permit Regulation, as Amended, Feb. 13, 1947, Amdt. 1]

#### PART 806—HOUSING PERMIT REGULATION UNDER VETERANS' EMERGENCY HOUSING ACT OF 1946

##### MAXIMUM FLOOR AREA

Section 806.1, Housing Permit Regulation, is amended in the following respects:

1. Paragraph (b) (2) is amended to read as follows:

(2) *Maximum floor area.* No person shall build or convert any dwelling accommodations under this section in which the total calculated floor area of any dwelling unit exceeds 1,500 square feet. Calculated area comprises the square foot area of spaces above basement or foundation including utility rooms, vestibules, halls, closets, stair wells and interior chimneys and fireplaces. However, calculated area does not include the square foot area of a utility room not exceeding 150 square feet in any house which does not have a basement. Calculated area does not include garages, unfinished attics, open porches, attached terraces, balconies and projecting fireplaces or chimneys outside the exterior walls. Measurements are taken to the outside surfaces of exterior

<sup>1</sup> Filed with the Division of the Federal Register.

walls. In a half story, measurements are taken to the outside surfaces of exterior walls or partitions enclosing the areas, but any area where the ceiling height is less than five feet is not included.

Issued this 26th day of March 1947.

FRANK R. CREEDON,  
Housing Expediter.

[F. R. Doc. 47-2336; Filed, Mar. 26, 1947;  
10:53 a. m.]

## TITLE 30—MINERAL RESOURCES

### Chapter I—Bureau of Mines, Department of the Interior

#### PART 01—ORGANIZATION

##### DELEGATION OF AUTHORITY CONCERNING DRILLING CONTRACTS

CROSS REFERENCE: For an addition to the list of delegations of authority contained in §§ 01.60 and 01.61, see Title 43, Part 4, *infra*, delegating to the Director of the Bureau of Mines certain authority concerning drilling contracts.

## TITLE 32—NATIONAL DEFENSE

### Chapter IX—Office of Temporary Controls, Civilian Production Administration

AUTHORITY: Regulations in this chapter unless otherwise noted at the end of documents affected, issued under sec. 2 (a), 54 Stat. 676, as amended by 55 Stat. 236, 56 Stat. 177, 58 Stat. 827, 59 Stat. 633, Pub. Laws 383 and 475, 79th Cong.; E. O. 9024, 7 F. R. 329; E. O. 9340, 7 F. R. 527; E. O. 9125, 7 F. R. 2719; E. O. 9593, 10 F. R. 10155; E. O. 9638, 10 F. R. 12591; C. F. A. Reg. 1, Nov. 5, 1945, 10 F. R. 13714; Housing Expediter's Priorities Order 1, Aug. 27, 1946, 11 F. R. 9507; E. O. 9809, Dec. 12, 1946, 11 F. R. 14231; OTC Reg. 1, 11 F. R. 14311.

#### PART 1010—SUSPENSION ORDERS

[Suspension Order S-1122]

FRANK NIEMCZEWSKI & MAURICE LA BELLE

Frank Niemczewski, of 2905 John Daly Road, Inkster, Michigan, and Maurice LaBelle, of 3012 John Daly Road, Inkster, Michigan, on or about October 9, 1946 without authorization of the Civilian Production Administration began and thereafter carried on construction of a structure at 2940 John Daly Road, Inkster, Michigan, at a cost estimated to be in excess of \$1,000 in violation of Veterans' Housing Program Order No. 1, and thereby has diverted critical materials to uses not authorized by the Civilian Production Administration. In view of the foregoing, it is hereby ordered that:

§ 1010.1122 *Suspension Order No. S-1122.* (a) Neither Frank Niemczewski nor Maurice LaBelle, their successors or assigns, nor any other person, shall do any further construction on the structure located at 2940 John Daly Road, Inkster, Michigan, including putting up, completing or altering the structure, unless hereafter authorized in writing by the Civilian Production Administration.

(b) Frank Niemczewski and Maurice LaBelle shall refer to this order in any application or appeal which they may file with the Civilian Production Ad-

ministration or the Federal Housing Administration for priorities assistance.

(c) Nothing contained in this order shall be deemed to relieve Frank Niemczewski and Maurice LaBelle, their successors and assigns, from any restriction, prohibition or provision contained in any other order or regulation of the Civilian Production Administration, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 25th day of March 1947.

CIVILIAN PRODUCTION  
ADMINISTRATION,  
By J. JOSEPH WHELAN,  
Recording Secretary.

[F. R. Doc. 47-2926; Filed, Mar. 25, 1947;  
4:20 p. m.]

#### PART 1010—SUSPENSION ORDERS

[Suspension Order S-1124]

RALPH L. LANDAS

Ralph L. Landas, R. D. #3, Pleasantville, Pennsylvania, on or about June 1, 1946, without authorization of either the Civilian Production Administration or the Federal Housing Administration, began and thereafter carried on construction of a two-story combination commercial and residential building on Route #27 at Enterprise, Pennsylvania, at an estimated cost of \$8,000. The beginning and carrying on of this construction, without authorization, subsequent to March 26, 1946 constituted a violation of Veterans' Housing Program Order No. 1. This violation has diverted critical materials to uses not authorized by the Civilian Production Administration. In view of the foregoing, it is hereby ordered that:

§ 1010.1124 Suspension Order No. S-1124. (a) Neither Ralph L. Landas, his successors or assigns, nor any other person shall do any further construction on his combination commercial and residential building located on Route #27 at Enterprise, Pennsylvania, including completing or altering the structure, unless hereafter authorized in writing by the Civilian Production Administration or other duly authorized Government agency.

(b) Ralph L. Landas shall refer to this order in any application or appeal which he may file with the Civilian Production Administration or any other Government agency, for priorities assistance or for authorization to carry on construction.

(c) Nothing contained in this order shall be deemed to relieve Ralph L. Landas, his successors or assigns, from any restriction, prohibition or provision contained in any other order or regulation of the Civil Production Administration, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 25th day of March 1947.

CIVILIAN PRODUCTION  
ADMINISTRATION,  
By J. JOSEPH WHELAN,  
Recording Secretary.

[F. R. Doc. 47-2927; Filed, Mar. 25, 1947;  
4:20 p. m.]

### Chapter XXIII—War Assets Administration

[Reg. 5]

#### PART 8305—SURPLUS REAL PROPERTY

War Assets Administration Regulation 5, October 12, 1946, entitled "Surplus Nonindustrial Real Property" (11 F. R. 12717), is hereby revised and amended as herein set forth. The title is amended to read as follows: "Surplus Real Property" Orders 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15 and 16 (10 F. R. 12070, 12735, 12961, 14072, 14399, 15269; 11 F. R. 2380, 182, 609, 9277, 1357, 1527, 1528, 8488, 14139) under this part shall continue in full force and effect. War Assets Administration Regulation 10, June 29, 1946, entitled "Government-owned Industrial Real Property and Transportation Property" as amended October 11, 1946 (11 F. R. 7583, 12017), War Assets Administration Regulation 16, June 26, 1946, entitled "Surplus Airport Property" as amended July 31, 1946 (11 F. R. 7427, 8361) Surplus Property Administration Regulation 18, November 16, 1945, entitled "Disposal of Improvements and Leasehold Interests in Industrial and Marine Real Property" as amended March 23, 1946 (10 F. R. 14404; 11 F. R. 3302) Surplus Property Administration Regulation 20, December 22, 1945, entitled "Surplus Marine Industrial Real Property" as amended to June 29, 1946 (11 F. R. 182, 561, 2302, 7431), and Surplus Property Administration Revised Special Order 19, January 16, 1946, entitled "Fair Value of Industrial Real Property and Transportation Property" (11 F. R. 953) are hereby superseded and rescinded by this part. The provisions of Orders 1 and 2 (11 F. R. 1743, 2933) under Regulation 16, as well as the provisions of Order 1 (11 F. R. 7133) under Regulation 20, shall continue in full force and effect until reissued and redesignated under this part.

Sec.

- 8305.1 Definitions.
- 8305.2 Scope.
- 8305.3 Basic policy.
- 8305.4 Declarations.
- 8305.5 Classification.
- 8305.6 Permit or order use.
- 8305.7 Disposal of leasehold interests and improvements by owning agencies.
- 8305.8 Options.
- 8305.9 Duties of owning and disposal agencies.
- 8305.10 Revocable leases or permits.
- 8305.11 Easements.
- 8305.12 Priorities.
- 8305.13 Valuation and appraisal.
- 8305.14 Notice and advertisement.
- 8305.15 Submission of proposals by non-priority offerors.
- 8305.16 Donations.
- 8305.17 Disposals for educational or public-health purposes.
- 8305.18 Price to priority claimants.
- 8305.19 Acceptance of offers.
- 8305.20 Form of conveyance.
- 8305.21 Disposal of leasehold interests and improvements by disposal agencies.
- 8305.22 Disposal under authority other than the Surplus Property Act.
- 8305.23 Functions of the Civil Aeronautics Administration.
- 8305.24 Fissionable materials.
- 8305.25 Submission to Attorney General and approval by regulatory agencies.

Sec.

- 8305.26 Records and reports.
- 8305.27 Regulations by agencies to be reported to the Administrator.
- 8305.28 Exceptions.

Exhibit A. Federal agencies to be given notice of availability of surplus real property.

AUTHORITY: §§ 8305.1 to 8305.28, inclusive, Surplus Property Act of 1944, as amended (68 Stat. 765, as amended; 50 U. S. C. App. Sup. 1611); Public Law 181, 79th Cong. (59 Stat. 533; 50 U. S. C. App. Sup. 1614a, 1614b); and Executive Order 9689 (11 F. R. 1265).

§ 8305.1 *Definitions*—(a) *Terms defined in the act.* Terms not defined in paragraph (b) of this section which are defined in the Surplus Property Act of 1944 shall in this part have the meaning given to them in the act.

(b) *Other terms.* (1) "Administration" means the War Assets Administration acting by or through the War Assets Administrator or a designated official to whom ministerial functions under this part have been delegated by the Administrator.

(2) "Administrator" means the War Assets Administrator.

(3) "Airport" or "airport property" means any area of land or water and the improvements, equipment, and facilities thereon suitable for and primarily used for or in connection with the landing and take-off or navigation of aircraft, and any area of land or water, improvements, equipment, and facilities, determined by the Administration to be suitable and necessary for the operation, expansion, or development of an airport.

(4) "Continental United States" means the forty-eight (48) states and the District of Columbia.

(5) "Educational institution" means any school, school system, library, college, university, or other similar institution, organization, or association, which is devoted primarily to carrying on instruction or research in the public interest, and which is a nonprofit institution.

(6) "Fair value" means the maximum price which a well-informed buyer, acting voluntarily and intelligently, would be warranted in paying if he were acquiring the property for long-time investment or for continued use with the intention of devoting such property to the best or most productive type of use to which the property is suitable or capable of being adapted.

(7) "Fissionable materials" means (i) all deposits from which the substances known as thorium, uranium, (including uranium enriched as to one of its isotopes) and elements higher than uranium in the periodic table, can be refined or produced, and (ii) all deposits from which there can be refined or produced other substances determined by the President by Executive order to be readily capable of or peculiarly related to transmutation of atomic species, the production of nuclear fission, or the release of atomic energy (Executive Order 9701, dated March 4, 1946, 11 F. R. 2369)

(8) "Former owner" means the person from whom the real property was acquired by the Government.

(9) "Harbor" means any body of water sheltered by nature or by breakwaters, jetties, or similar structures, which affords anchorage for ships or other craft used in water-borne commerce. It includes the land, jetties, and breakwaters which form the sheltered water area as well as the structures and equipment which are required to keep the harbor in operative condition.

(10) "Improvements" means Government-owned structures, buildings, fixtures, facilities, utilities, and equipment attached to the realty.

(11) "Industrial real property" means real property the highest and best use of which is for purposes of manufacturing, fabricating, or processing of products, for mining operations or for the construction, repair, or operation of ships and other water-borne carriers, and railroad trackage, pipelines, and pipeline facilities used for transporting petroleum, petroleum products or gas, and power transmission lines. It includes land, or any interest in land, together with buildings, fixtures, facilities, utilities, and equipment located on such property or adapted to use in connection with such purposes, as well as unimproved land essential to the use of the property, and port terminals. It does not include, however, land, buildings, fixtures, facilities, utilities, or equipment classified by the Administration as airport property or nonindustrial property. In any case, the Administration may determine whether property is or is not industrial real property as defined herein.

(12) "Market price" means the highest price the property will bring in terms of money if offered for sale in the open market with reasonable time to find a purchaser buying with knowledge of the uses and purposes to which it is adapted and for which it is capable of being used.

(13) "Nonprofit institution" means any nonprofit scientific, literary, educational, public-health, public-welfare, charitable, or eleemosynary institution, organization or association, or any nonprofit hospital or similar institution, organization, or association which has been held exempt from taxation under section 101 (6) of the Internal Revenue Code, or any nonprofit volunteer fire company or cooperative hospital or similar institution which has been held exempt from taxation under section 101 (8) of the Internal Revenue Code.

(14) "Own business enterprise" of a veteran means one of which more than fifty (50) percent of the invested capital thereof is beneficially, and not merely formally or nominally, owned by a veteran or veterans, or one of which more than fifty (50) percent of the net income thereof beneficially, and not merely formally or nominally, accrues to a veteran or veterans.

(15) "Owner-operator" means a person who seeks to acquire land classified as agricultural and represents that he expects to cultivate and operate the land for a livelihood.

(16) "Plant" means an industrial installation capable of operation as an economic unit and includes structures,

buildings, fixtures, facilities, utilities and equipment of all types located on or used in the operation of the installation. It may or may not include the land.

(17) "Port terminal" means a facility for the loading and unloading of ships or other craft used in water-borne commerce.

(18) "Priority" means the right, subject to stated conditions and limitations, to acquire surplus real property to the exclusion of others.

(19) "Public-health institution" means any hospital, board, agency, institution, organization or association, which is devoted primarily to carrying on medical, public-health, or sanitational services in the public interest, or research to extend the knowledge in these fields, and which is a nonprofit institution.

(20) "Readily severable" means capable of being removed without substantial damage to either the property being removed or the premises.

(21) "Real property" means any interest owned by the United States or any Government agency in land and in any fixtures or improvements thereon of any kind, but does not include the public domain or such lands withdrawn or reserved from the public domain as the Administration determines are suitable for return to the public domain for disposition under the general land laws.

(22) "Scrambled facility" means Government-owned improvements, together with appurtenant equipment and other personal property, which are located on or used in the operation of a privately-owned plant or other non-Government-owned real property as an integral part thereof, and are not capable of economic operation as a separate and independent unit.

(23) "Section 23 real property" means property consisting of land, together with any fixtures and improvements thereon (including hotels, apartment houses, hospitals, office buildings, stores, and other commercial structures) located outside the District of Columbia, but does not include (i) commercial structures constructed by, or at the direction of, or on behalf of any Government agency, (ii) commercial structures which the Administration determines have been made an integral part of a functional or economic unit which should be disposed of as a whole, and (iii) war housing, industrial plants, factories, airports, airport facilities, or similar structures and facilities, or the sites thereof, or land which the Administration determines essential to the use of any of the foregoing.

(24) "Small business" as used herein means an enterprise, or group of enterprises, under common ownership or control, which does not at the date of purchase or lease of surplus real property hereunder have more than five hundred (500) employees, or any such enterprise which, by reason of its relative size and position in its industry, is determined by the disposal agency to be a small business. The disposal agency may in its discretion apply either or both criteria

in determining whether the applicant is a small business.

(25) "State or local government" means a State, territory or possession of the United States, the District of Columbia, and any political subdivision or instrumentality thereof.

(26) "Termination inventory" means Government-owned raw materials, work in process, end items, and components used in the assembly of the end products located in or on a surplus plant.

(27) "Veteran" means any person in the active military or naval service of the United States during the present war or any person who served in the active military or naval service of the United States on or after September 16, 1940, and prior to the termination of the present war, and who has been discharged or released therefrom under honorable conditions. Veterans "released" from military or naval service shall include persons on terminal leave or final furlough and those whose status has been changed from "active" to "inactive."

(28) "War housing" means real properties improved with housing structures, acquired or constructed by the Government subsequent to September 8, 1939, either (i) for the purpose of housing servicemen, war workers, and their families, or (ii) by the use of funds earmarked or appropriated for the housing of persons engaged in national defense activities, and their families.

§ 8305.2 *Scope.* This part applies to all surplus Government-owned real property located within the continental United States, its territories and possessions, including personal property assigned for disposal therewith. It includes also items comprising termination inventory which the Administration determines are essential to the advantageous disposition of the real property. It does not include plant equipment (as defined in Part 8306<sup>1</sup>) which is included in a privately owned plant.

§ 8305.3 *Basic policy.*—(a) In all actions taken pursuant to this part the disposal agency shall give due weight to the applicable objectives set forth in section 2 of the act. The Administrator finds that it is imperative that prompt action be taken with respect to the disposal of Government-owned real property except such property as may be needed for purposes of national defense. The disposal agency may, upon receipt of notice from the owning agency that property is to be declared surplus, take appropriate steps hereunder leading toward the disposal of real property prior to its declaration as surplus: *Provided, however,* That no final action shall be taken until an acceptable declaration has been filed.

(b) It is the policy of the Administrator that real property shall be disposed of by such methods as best meet the objectives of the act, including in appropriate cases the use of sealed bids.

(c) The disposal agency shall accept that proposal which it finds, upon an evaluation of all the information avail-

<sup>1</sup> SPA Reg. 6 (10 F. R. 14521; 11 F. R. 1833).



able to it, will most clearly tend to meet the applicable objectives and provisions of the act. In any case, the disposal agency shall reject any proposal if it finds that on the whole it conflicts with such objectives. In considering proposals the disposal agency shall give thorough consideration to whether such objectives can best be met by leasing. Emphasis shall be placed upon the urgency of getting industrial property into civilian production or operation speedily so as to provide maximum employment in the postwar period. Due regard shall be given, however, to the possibility of enlarging the present major contribution to this objective which is made by small business and to the importance in this connection of maintenance of free independent competitive enterprise and the establishment of a maximum of independent operators in industry.

(d) It is the policy of the Administrator in considering equivalent or substantially equivalent proposals that medium-sized and small plants be sold or leased to local or small firms, preferably those owned or controlled by veterans. The disposal agency should therefore accept offers from responsible local groups with adequate working capital, experience, and other necessary qualifications, and should where necessary extend liberal credit terms over a period of years in preference to a cash offer from a firm or group which would tend to concentrate economic power.

(e) It is hereby declared that the national interest requires the disposal of surplus airport property in such a manner and upon such terms and conditions as will encourage and foster the development of civil aviation and provide and preserve for civil aviation and national defense purposes a strong, efficient, and properly maintained nationwide system of public airports, and will insure competition and will not result in monopoly. It is further declared that in making such disposals of surplus airport property the benefits which the public and the nation will derive therefrom must be the principal consideration, and financial return to the Government a secondary consideration. Airports which are surplus to the needs of owning agencies may be essential to the common defense of the nation or valuable in the maintenance of an adequate and economical national transportation system. In such cases and in accordance with the rules established herein such airports may be disposed of to State or local governments for considerations other than cash.

(f) The disposal agency shall keep a written record of the factors it weighed in arriving at a decision.

§ 8305.4 *Declarations*—(a) *General*. Declarations of surplus real property and surplus personal property located therein or thereon shall be filed with the Administrator as provided in Part 8301.<sup>2</sup> Such property shall be declared surplus subject to any outstanding rights of refusal or options to purchase or otherwise acquire the property, and nothing in this

part shall be deemed to impair the right of any person to exercise any valid right of refusal or option.

(b) *Reservations, restrictions, and conditions*. In conjunction with a declaration of surplus real property hereunder, the owning agency and, in appropriate cases, the Navy Department, the War Department, or the Civil Aeronautics Administration, may request that the disposition of the property be made subject to any reservations, restrictions, and conditions deemed desirable. In the event the Administration does not approve of any or all of the reservations, restrictions, or conditions requested by the owning agency or sponsoring agency, or the disposal agency finds that it is unable to dispose of the property subject to the reservations, restrictions, or conditions imposed on the property as requested, the owning agency shall be so notified by the Administration, whereupon the owning agency may either: (i) eliminate, or cause to be eliminated, or modify or cause to be modified, any request for such reservations, restrictions, or conditions, or (ii) withdraw such property from surplus upon making reimbursement, where authorized by law, to the disposal agency for the costs of care and handling. If the owning agency does not follow either course, the Administrator may within a reasonable time and upon notice to the owning agency direct the disposal agency to dispose of the property without such reservations, restrictions, or conditions.

§ 8305.5 *Classification*. All surplus real property shall be classified by the Administration to determine the methods and conditions of, and the priorities applicable to, the disposition of the property. The classification may be revised from time to time.

§ 8305.6 *Permit or order use*. When a Government agency utilizing Government-owned real property under some form of arrangement with another Government agency having primary jurisdiction over the property no longer needs the property, such real property and any interest therein shall be returned to the agency having primary jurisdiction over the property in accordance with the arrangement between such agencies, except where the property has been substantially improved while being so utilized. In this latter event, the agency utilizing the property shall make a report of the facts to the Administration for a determination as to how the interests of the Government will be best served.

§ 8305.7 *Disposal of leasehold interests and improvements by owning agency*—(a) *Leaseholds*. (1) A Government agency owning a leasehold interest or similar right of occupancy which is no longer needed by such agency but which is needed by another Government agency shall, unless prohibited by the terms of the lease or other instrument under which the interest was acquired, transfer such interest directly to such other agency without declaring it surplus. The consideration for any such transfer shall be the fair value of any Govern-

ment-owned structures or improvements included in the transfer unless otherwise authorized by the Administration or unless a transfer without reimbursement or transfer of funds is authorized by law. The owning agency shall take reasonable steps to ascertain the needs of Government agencies for such interests, and to this end may utilize the facilities of the Public Buildings Administration of the Federal Works Agency.

(2) If such leasehold or other interest is not claimed by any Government agency within a reasonable time and such leasehold or other interest does not include a purchase option in favor of the Government such leasehold or other similar interest may, subject to the provisions of subparagraph (b) (3) and paragraph (c) of this section, be terminated by the owning agency without declaring it surplus, after making arrangements for disposing of the Government-owned improvements as herein provided.

(b) *Improvements*. (1) When a Government agency no longer needs improvements located on Government-owned land which is not surplus and which is not expected to become surplus, or on land held only under leasehold or other similar right which is to be cancelled pursuant to paragraph (a) of this section, the owning agency may, subject to the provisions of this section, dispose of the improvements (except readily severable property which may be disposed of under other applicable regulations, and improvements erected under Emergency, Plant Facility contracts, title to which has not vested in the Government, and similar contracts, which improvements shall be disposed of in accordance with the provisions of § 8305.8 of this part, or other applicable regulations of the Administrator) by any one or more of the following methods:

(i) By transfer to the lessor or owner of the premises in full or partial satisfaction of any obligation to restore the premises or upon the release by the lessor or owner of a restoration obligation, if any, and upon the payment of a consideration that is fair and reasonable under all the circumstances;

(ii) By disposition in accordance with contractual commitments;

(iii) By transfer to another Government agency for removal from the site;

(iv) By sale intact;

(v) By contract for demolition, let only on competitive bids, whereby title to material not readily severable passes to the contractor;

(vi) By demolition of property not readily severable and disposal of surplus used building and construction materials by competitive bidding and of other resulting materials in accordance with any other applicable regulations of the Administrator. Any such competitive bidding shall be conducted under rules and regulations prescribed by the owning agencies containing provisions, among others, requiring lots to be offered in such reasonable quantities as to permit all bidders, small as well as large, to compete on equal terms, requiring wide public notice concerning such sales and time intervals between notice and sale ade-

<sup>2</sup> Reg. 1 (12 F. R. 863).

quate to give all interested purchasers a fair opportunity to buy, and reserving the right to reject all bids;

(vii) By abandonment if the owning agency has no obligation to remove such improvements and it finds in writing that such property is without commercial value or that the estimated cost of its care, handling, removal, and disposition would exceed the estimated proceeds of sale.

(2) No improvements on industrial real property costing more than \$100,000 shall be disposed of under this section by the owning agency without prior submission to and consent of the Administration, unless such improvements are located on Government-owned land which is not surplus and which is not expected to become surplus.

(3) With the exception of transfers to other Government agencies, no improvements (except scrambled facilities) on land which the Government by lease, option to lease, or otherwise, has a right to occupy for an additional definite period of five (5) years or more from the time it is determined to be surplus, shall be disposed of by the owning agency hereunder if the leasehold or other interests are no longer needed by the owning agency, but such improvements, together with the leasehold or other interests, shall be declared as surplus. At the direction of the Administration, any improvements, regardless of cost or the terms under which the land is occupied, shall be declared surplus in place, together with any related leasehold or other interests no longer needed by the owning agency.

(c) *Airport property.* No leasehold covering all or any portion of airport property shall be cancelled by an owning agency except upon prior written approval of the Administration.

§ 8305.8 *Options.* The owning agency, where valid options are in force and the property is under its control, may dispose of the property covered by the option strictly in accordance with the terms of the option where the option price may be determined solely by a mathematical computation under the provisions of the option contract, or where by the terms of such option the fair value or selling price is to be determined by a designated official in such owning agency. In all other cases, the owning agencies shall declare surplus the property covered by the options, and disposals of such property shall be made by the designated disposal agency pursuant to the rights of refusal or option, if exercised by the holder thereof. The disposal agencies may request the assistance of the owning agencies where necessary. Upon the lapse or waiver of any such right or option, the property shall be disposed of as promptly as possible in accordance with the provisions of this part.

§ 8305.9 *Duties of owning and disposal agencies—(a) Care and handling.* Upon the filing of an acceptable declaration of surplus property as provided in § 8305.4 of this part, the Administration or the disposal agency shall work out with the owning agency mutually satisfactory agreements for the assumption by the Administration or the disposal

agency of the physical custody and control of, and accountability for, the property covered by the declaration. The owning agency shall take necessary steps to insure the reasonable preservation and safety of the property pending assumption of the physical custody by the designated disposal agency: *Provided, however,* That any existing agreements between an owning and disposal agency heretofore approved by the Administrator shall not be affected by this section. Any agreements made between an owning and disposal agency which postpone the date on which such disposal agency shall be responsible for the physical care and handling of such property shall not postpone such date for more than ninety (90) days from the date when the acceptable declaration is filed, unless the prior approval of the Administration is obtained.

(b) *Repairs and improvements.* The disposal agency shall make or cause to be made repairs necessary for the protection and maintenance of the property. Where necessary, in order best to attain the applicable objectives of the act, consideration may be given to improvements or alterations which involve completing, converting, or rehabilitation of the property, and the disposal agency may make commitments and expenditures within its budgetary allotment for such purposes as in its opinion will further such objectives: *Provided, however,* That the disposal agency shall make no commitment or expenditure on account of such repairs or alterations in excess of \$100,000 without prior written approval of the Administrator.

(c) *Taxes and other obligations.* Taxes, rents, and insurance premiums for a certain period which is partially prior and partially subsequent to the date on which the declaration of surplus is filed, shall be prorated between the owning agency and the disposal agency as of the date of the filing of an acceptable declaration. The agency paying the taxes, rents, and insurance premiums for such period shall be reimbursed by the other agency for that portion of such disbursements properly allocable to the other agency under such proration. Rents or other income received for any such period shall be prorated in like manner. The disposal agency shall be responsible for reimbursing the owning agency for payment of taxes covering any taxable period commencing after the filing of the acceptable declaration. The disposal agency may renew any lease pursuant to which the Government is in possession, and may assume and carry out any of the obligations of the lessee thereunder. It shall be the duty of the owning agency to renew any lease to be declared surplus to this Administration when the date upon which such property is to be declared surplus is within ninety (90) days of the period within which notice to renew, under the terms of the lease, shall be given.

(d) *Transfer of title papers, documents, etc.* Upon request of the disposal agency, and consistent with any necessary restrictions in the interest of national security, the owning agency shall supply the disposal agency with the originals or true copies of all documents or

portions thereof pertaining to the property in the possession of the owning agency and copies of which have not been filed with the declaration. These may include leases, permits, appraisal reports, abstracts of title, tax receipts, deeds, affidavits of title, copies of judgments in condemnation proceedings, maps, surveys, and such other papers as may relate to the property. All such papers and documents which may still be needed by the owning agency shall be returned to it as soon as the needs of the disposal agency have been satisfied. The disposal agency may transfer to the purchaser of the property, as a part of the disposal transaction, any abstract of title, or title guaranty or title insurance policy, which relates to the property being transferred and which is no longer needed either by the owning agency or the disposal agency. The terms upon which such a transfer shall be made shall be fixed by the disposal agency.

(e) *Studies by disposal agency.* The disposal agency shall compile appropriate information regarding all real property to be disposed of hereunder. Any report by any person engaged to collect or evaluate information pursuant to this part shall contain a certificate that he has no interest, direct or indirect, which would conflict in any manner or degree with the preparation and submission of an impartial report. Consistent with any necessary restrictions in the interest of national security, the owning agency shall render all possible assistance to the disposal agency in compiling such information, and, where the owning agency shall have prepared any such information, it shall immediately upon request forward the same to the disposal agency and shall cooperate with the disposal agency in obtaining any further necessary information. The owning agency and the disposal agency shall avoid duplication of work in compiling or preparing any such information.

§ 8305.10 *Revocable leases or permits.* A lease or permit may be granted by the Government agency having custody of the property to place surplus real property in productive use: *Provided,* That such lease or permit shall be made revocable on not to exceed thirty (30) days' notice by the Government agency having jurisdiction of the property, and, *Provided further,* That the use and occupation will not interfere with, delay, or retard the disposition of the property. In such cases, an immediate right of entry to such property may be granted pending execution of the formal lease or permit. Unless otherwise authorized by the Administration, the lease or permit shall be for a consideration that is fair and reasonable under all the circumstances, with or without cash consideration, and shall be on such terms and conditions as are deemed appropriate properly to protect the interests of the United States. In the event the disposal agency, after the filing of an acceptable declaration, has not assumed physical custody and control, and accountability, of the property at the time the permit is to be issued, the issuance of the permit and the grant of immediate right of entry shall be by the owning agency,

upon prior written authorization of the Administration.

§ 8305.11 *Easements*—(a) *To owner of servient estate.* The owning agency or the disposal agency, whichever has custody, control, and accountability of the property may, with or without consideration, dispose of an easement to the owner of the land which is subject to the easement when it is determined that the easement has no commercial value and is no longer needed: *Provided, That,* when any such easement was acquired for a substantial consideration such disposal shall be made at a consideration that is fair and reasonable under all the circumstances with due regard for any portion of the purchase price paid for severance damages.

(b) *To others.* Subject to the provisions of §§ 8305.12 and 8305.14 of this part, a disposal agency may grant easements in or over real property: *Provided,* That the prior approval of the Administration shall be obtained where the disposal agencies determine that the granting of such easements substantially decreases the value of the property; and, in such cases, the granting of the easement shall be for a consideration that is fair and reasonable, or without compensation when authorized by law.

§ 8305.12 *Priorities.* (a) *Order of priority.* In disposing of surplus real property the following priorities shall be recognized:

(1) Government agencies shall be accorded first priority to acquire all classes of surplus real property for their own use.

(2) Reconstruction Finance Corporation, successor to Smaller War Plants Corporation, shall have a second priority to acquire any such surplus property for resale to such purchasers as it determines to be small business, as provided in section 18 (e) of the act. Such purchases shall be made by the Reconstruction Finance Corporation in its own name, and payment therefor shall be made by the Corporation. Each purchase order by the Corporation for resale purposes shall be based upon a written finding that the resale is required to preserve and strengthen the competitive position of small business, or will assist the Corporation in the discharge of the duties and responsibilities imposed upon it as successor to Smaller War Plants Corporation.

(3) State or local governments shall be accorded third priority to acquire all classes of surplus real property in order to fulfill, in the public interest, their legitimate needs. Any State or local government which has lost a highway or street over surplus section 23 real property because of Government acquisition or action shall be accorded a special priority, with precedence over all other State or local governments, to permit it to re-establish such highway or street. This right shall extend to the original right-of-way and any new or additional rights-of-way needed to re-establish the street or highway on a new or more adequate location. States and local governments in which a surplus airport, harbor, or port terminal is situated (including municipalities in the vicinity there-

of) shall have a special priority over other State and local governments to acquire such property.

(4) A former owner shall be accorded fourth priority as to any surplus section 23 real property acquired from him by any Government agency after December 31, 1939. This priority shall relate to property which is substantially the identical tract acquired by the Government from the owner. If this tract is not available to the former owner or is not desired by him because it is no longer suitable for the purpose for which it was used when acquired by the Government, he may be offered substitute property. Such substitute property shall be in the same area, be classified as suitable for the use for which the original tract was used when acquired, and otherwise be similar to the original tract. With respect to any substitute property thus made available to him the former owner shall be accorded a priority subordinate only to the priorities of Government agencies, State or local governments, a former owner or a tenant of a former owner of the substitute property. Acquisition of a substitute tract shall extinguish the priority of the former owner with respect to the original tract. Where only a portion of an original tract acquired from a former owner is declared surplus and the circumstances indicate that the remainder of such former owner's original tract will be declared surplus within a reasonable time, the disposal agency, without affecting the priorities of Government agencies or State and local governments, may grant the former owner a priority to the portion first declared surplus and extend the same to a date ninety (90) days from the date notice is forwarded to the former owner of the availability of the entire original or substantially identical tract acquired from him.

(5) A tenant of a former owner, who was in possession of agricultural section 23 real property at the time the same was acquired by any Government agency after December 31, 1939, shall be accorded fifth priority with respect to substantially the same property occupied by him as tenant at the time of such acquisition.

(6) A veteran and the spouse and children (in that order) of a person who died while in the active military or naval service of the United States on or after September 16, 1940, shall be accorded a priority as to all surplus section 23 real property classified by the Administration as suitable for agricultural, residential, or small business purposes. This priority shall be subordinate to all the priorities described in subparagraphs (1) through (5) of this paragraph. The disposal agency shall satisfy itself, by reference to the veteran's discharge papers or other evidence, that the applicant is qualified to exercise this priority, and that the property applied for is for the applicant's own personal use for agricultural or residential purposes, or to enable the applicant to establish or maintain his own small business enterprise as defined in this part.

(7) Owner-operators shall be accorded a priority with respect to all surplus section 23 real property classified by the

Administration as suitable for agricultural use. This priority shall be subordinate to the priorities described in subparagraphs (1) through (6) of this paragraph.

(8) Nonprofit institutions shall be accorded a priority to acquire all classes of surplus real property, except airport, harbor, or industrial real property, in order to fulfill, in the public interest, their own legitimate needs. This priority shall be subordinate to the priorities described in subparagraphs (1) through (7) of this paragraph.

(b) *Extent of priorities.* A priority may be exercised only for the entire interest which is offered: *Provided, however,* That the disposal agency may, in its discretion, accept an offer for less than such entire interest. The priorities of Government agencies, State, or local governments, and nonprofit institutions are continuing priorities which are not exhausted because of their effective exercise with respect to a given piece of property. The priority of a veteran, the spouse and children of a deceased serviceman, or an owner-operator, ceases to exist after it has once been effectively exercised with respect to one appropriate unit. The priority of a former owner or tenant is limited to the particular property as described in subparagraphs (a) (4) and (5) of this section.

(c) *Transfer of priorities and transmission on death.* No assignment or transfer of a priority shall be recognized, but the priority of a former owner may be exercised through an agent duly authorized in writing where the priority holder is so situated that he cannot exercise it in person. Upon the death of a veteran or former owner, his spouse and children (in that order) shall succeed to his priority rights. The priority right of a tenant shall be extinguished by his death.

(d) *Time and method of exercise.* Government agencies, the Reconstruction Finance Corporation for resale to small business, and State or local governments shall have a period of ten (10) days in which to exercise their respective priorities after the date notice of availability is first published. The priority of the Reconstruction Finance Corporation to acquire industrial property for resale to small business, under § 18 (e) of the act, may be exercised at any time after notice of availability is first published up to and including the cut-off date provided for in section 8305.14. Where the former owner has a priority, the time for the exercise of the former owner's priority and all subordinate priorities shall be ninety (90) days after the date notice of availability is first published, or such additional period as the Administration may allow when necessary or appropriate to facilitate a sale of the property to a former owner entitled to priority. In all other cases, the priority period shall be a period of ten (10) days after the first publication of notice of availability. Within the established priority period, the priority holder shall indicate an intention to exercise his priority by submitting to the disposal agency a written offer to acquire the property, stating the price that the applicant is willing to

pay or, in the case of a Government agency, that a transfer without reimbursement or transfer of funds is authorized by law. Each offer shall be accompanied by such deposit as the disposal agency may require, except that no deposit shall be required from a Government agency, including the Reconstruction Finance Corporation or State or local government. The offer of a Government agency shall state that the property is being acquired for its own use and not for transfer or disposition, and shall set forth all pertinent facts pertaining to its need for the property. The offer of a State or local government or nonprofit institution shall show in detail the contemplated use of the property. Veterans, the spouse and children of deceased servicemen, and the owner-operators may offer to purchase any or all units offered for sale. When an offer cannot be made because the disposal agency lacks necessary information on price, units, or other matter, it shall be sufficient if the priority holder, within the applicable priority period, files a written statement of his desire to acquire the property or one or more appropriate units thereof. As soon as the necessary information becomes available (whether during or after the priority period) those who have filed such statements shall be so advised and given an opportunity to make an offer. The offer must be completed within a reasonable time as determined by the disposal agency. If a Government agency or State or local government shall require time to acquire funds or authority to acquire the property, the claimant shall, within the priority period, so state in its application and indicate the length of time needed for that purpose. The disposal agency will review the application and determine what time, if any, shall be allowed applicant to conclude the acquisition of the property and will advise the applicant of such determination.

(e) *Failure to offer full amount or to exercise in time.* Except as otherwise provided in paragraph (d) of § 8305.12, all priorities not exercised during the priority period shall expire upon the termination of such period. The disposal agency may, in its discretion, permit priority holders to make offers after the priority period has ended, and such offers may be considered on the same basis as if they had been submitted during the priority period. Such action by the disposal agency, however, shall not be construed as extending the priority period, and such offers may not be accepted to the prejudice of a timely and acceptable offer from another priority offeror. In order to exercise his priority, the offer of a priority offeror shall meet all the requirements of § 8305.18 with respect to consideration, which consideration shall be established in each case by the disposal agency. If his bid is less than the established consideration, such bid shall be treated as a nonpriority offer: *Provided, however* That an offer from a Federal agency, which offer is less than fair value, shall be rejected, except where a transfer without reimbursement or transfer of funds is authorized by law. Offers by those entitled to a priority hereunder,

which offers do not meet all the requirements of this part, may, at the option of the disposal agency, be treated as nonpriority offers.

§ 8305.13 *Valuation and appraisal—*  
(a) *General.* Except as provided otherwise in this section, the disposal agency shall in all cases establish the fair value of the property assigned to it for disposition: *Provided, however,* That in those cases in which the property assigned for disposition is airport property, or property which it is contemplated will be transferred to a Federal agency without reimbursement or transfer of funds, no estimate need be made of the value of the property.

(b) *Property to be acquired through exercise of former owner's and tenant's priority.* When necessary in connection with the sale of property to a person exercising the priority accorded under the act and this part to a former owner or tenant of section 23 real property, the disposal agency shall establish, by appraisal, the market price of such property.

(c) *Method of determining values.* To determine values, the disposal agency shall have the property appraised by experienced and qualified appraisers familiar with the types of property to be appraised by them. They may be staff appraisers of the disposal agency, individuals employed on a loan reimbursable basis from other Federal agencies, or independent appraisers in private business. All appraisal reports shall contain a certificate executed by the appraiser certifying that he has no interest, direct or indirect, in the property, or sale or disposition thereof.

§ 8305.14 *Notice and advertisement—*

(a) *Wide publicity.* Except where a transfer is requested by a Government agency, including the Reconstruction Finance Corporation for resale to small business, the disposal agency shall widely publicize all real property which becomes available for disposal hereunder, giving information adequate to inform interested persons of the general nature of the property and its possible uses, as well as any reservations, restrictions, and conditions imposed upon its disposition by the Administration. Such publicity shall be by public advertising or other appropriate public notice. The disposal agency may consult with local groups and organizations. The disposal agency shall, upon request, supply to bona fide potential purchasers and lessees adequate preliminary information and, with the cooperation of the owning agency where necessary, shall render such assistance to such persons as may enable them so far as feasible to acquire adequate information regarding the property. The disposal agency shall establish procedures so that all persons showing due diligence are given full and complete opportunity to make a proposal.

(b) *Notice to priority holders.* At the time of the first publication of the advertising required by this section, or where advertising is not required, notice shall be sent by mail to all Government agencies listed in Exhibit A of this part, to the State and political subdivisions in which the property is located, and, in the

case of harbor, port terminal, or airport property, to political subdivisions in the vicinity thereof, and to any State or local governments and nonprofit institutions which have expressed an interest in the property. Where, however, a transfer is requested by one of the armed forces for national defense purposes prior to the conclusion of peace, its need being recognized as paramount, no notice to other Government agencies is necessary. Where the former owner is entitled to a priority, the disposal agency, at the time of the first publication of such notice, shall send a copy thereof to the former owner at his last known address by registered mail, with return receipt requested, except in those cases where a State and local government has indicated its intention to exercise its priority to acquire the property.

(c) *Inspection.* All persons interested in the acquisition of surplus property available for disposal under this part shall, with the cooperation of the owning agency where necessary, be permitted to make a complete inspection of such property, including any engineering reports made in connection therewith, subject to any necessary restrictions in the interest of national security and subject to such rules and regulations as may be prescribed by the owning or disposal agency. The consent of the sponsoring agency is required where the property is still in production or use.

(d) *Cut-off date.* All advertisements published pursuant to the requirements of this section shall contain a cut-off date for the submission of offers.

§ 8305.15 *Submission of proposals by nonpriority offerors.* All proposals made by any nonpriority holder interested in the acquisition of surplus real property available for disposal in accordance with the provisions of this part shall be in writing and, in addition to the financial terms upon which the proposal is predicated, shall set forth the willingness of the offeror to abide by the terms, conditions, reservations, and restrictions upon which the property is offered, and shall contain such other information as the disposal agency may request. Any information submitted, the disclosure of which might tend to subject the offeror to a competitive business disadvantage shall, upon request, be held in strict confidence by the disposal agency and by any other Government agency to which it is made available.

§ 8305.16 *Donations.* Surplus real property may be donated only to any agency or institution supported by the Federal Government, or any State or local government, or to any nonprofit educational or charitable organization, and only when the disposal agency finds in writing either: (a) that the property has no commercial value or (b) that the cost of its care, handling, and disposition would exceed the estimated proceeds of a sale. Before making any donation, however, the disposal agency shall in all cases obtain the prior approval of the Administration. To obtain such approval, the disposal agency shall submit to the Administration a copy of its findings, together with any support-



ing evidence, and a full description of any donation that may be proposed.

§ 8305.17 *Disposals for educational or public-health purposes.* State or local governments or educational or public-health institutions seeking to acquire surplus real property hereunder for educational use or to promote or protect the public health may qualify for an allowance from the fair value because of the benefit which has accrued or which may accrue to the United States by such use: *Provided*, That no public-benefit allowance may be allowed to any nonprofit institutions which are not exempt from taxation under section 101 (6) of the Internal Revenue Code. Applications for such allowances shall be filed with the Administration and shall indicate with reasonable completeness the nature of the contemplated use of the property, the basis for claiming preferential treatment, a full description of the applicant, and the ways in which and the extent to which the United States will be benefited by the proposed use. Each such application shall be accompanied by a certificate of an authorized official of the buyer that the buyer is a State or local government, or that it is a nonprofit institution as defined in § 8305.1 (b) of this part, and that the property is being acquired for educational or public-health purposes. The application also shall be accompanied by a statement from the disposal agency setting forth such information as the disposal agency is able to secure with respect to the applicant, the contemplated use by such applicant, and the disposal agency's estimate of the fair value of the property. After considering the application and any additional evidence deemed appropriate, including additional information required from the disposal agency or the applicant, the Administration shall notify the disposal agency of its decision on the application, certifying the amount of the public-benefit allowance granted and directing the terms and conditions of the disposal.

§ 8305.18 *Price to priority claimants—(a) General.* Except as herein-after provided, the price to be charged priority purchasers shall be the fair value of the property offered for disposal.

(b) *Transfers to Federal agencies without reimbursement.* Transfers may be made to Federal agencies without reimbursement or transfer of funds when such transfers are authorized by law.

(c) *Former owners and tenants.* The price to be paid by a former owner or tenant acquiring surplus section 23 real property shall be a price not greater than that for which it was acquired by the United States, such acquisition price being properly adjusted to reflect any increase or decrease in the value of such property resulting from action by the United States, or a price equal to the market price at the time of sale of such property, whichever price is the lower.

(d) *Airport, harbor or industrial real property.* The consideration for a transfer of airport, harbor, or industrial real property shall be the fair value of such property considered in the light of the applicable objectives of the act and the reservations, restrictions, and conditions

imposed upon the future use and disposition of the property. *Provided, however* That disposals of surplus airport property as such may be made to a State or local government without the payment of a monetary consideration by the transferee in those uses where such airport property is taken under such reservations, restrictions, and conditions as may be determined by the Administration to constitute in the aggregate adequate consideration for such transfer, and: *Provided, further*, That disposals of such property shall provide that there shall be no exclusive right for the use of any landing area or air navigation facility upon which Federal funds have been expended.

§ 8305.19 *Acceptance of offers—(a) General.* The disposal agency shall allow a reasonable period of time within which the successful bidder shall consummate the transaction and shall notify the successful bidder of the period allowed. Offers from priority holders at their respective established considerations shall be accepted in the order of their priority. If there are several acceptable offers at the same price or consideration from offerors in the same priority group or from nonpriority offerors, the offer to be accepted from that group shall be selected as provided in paragraph (c) of this section. In evaluating offers, the disposal agency shall be guided by all of the applicable objectives of the act. In addition, due consideration shall be given to the offers of nonprofit institutions and such offers shall be carefully considered, bearing in mind the nature of the nonprofit institution and the use to which it proposes to put the property. Disposal agencies may reject any offer which is below the fair value of the property other than an offer from a priority holder for the maximum consideration established for a transfer to such a priority holder. When a veteran, the spouse and children of a deceased serviceman, or an owner-operator has made an offer for more than one unit, only one of the offers of such offeror shall be accepted. No disposal shall be made at a price which is more than twenty-five (25) per centum below the established fair value until such disposal has been reviewed and approved by the Administration, unless that price or consideration is the maximum price or consideration which may be charged the purchaser.

(b) *Proof of priority status.* Before a disposal agency shall dispose of surplus real property on the basis of the priority claimed by the offeror, it shall require satisfactory proof of the priority status, identity, or authority of the person making the offer.

(c) *Equal offers.* If equal acceptable offers are received for the same property from two or more offerors of the same priority group, or if equal offers are received from two or more nonpriority offerors, selection shall be made as follows:

(1) In the case of Government agencies, State or local governments, or nonprofit institutions the selection shall be determined on the basis of need. If the matter cannot be determined by agreement between the claimants, the disposal

agency shall report the matter in writing to the Administration, setting forth the names of the competing claimants, a summary of their respective claims, a description of the property involved, and the recommendations, if any, of the disposal agency, together with any statements in writing which the claimants, or any of them, may wish to file with the Administration. The Administration shall review the matter and report its determination to the disposal agency. The Administration's determination shall be final for all purposes.

(2) With respect to veterans, the selection shall be by lot. With respect to all other priority groups and nonpriority offerors, the selection shall be determined, unless otherwise directed by the Administration, by taking into consideration actual proposals received and the use of the property most desirable in the light of the applicable objectives of the act.

(3) If a veteran, the spouse and children of a deceased serviceman, or an owner-operator is selected for more than one unit, he shall elect in writing which one he shall take and thereupon the right to purchase the remaining unit or units of property shall go to the remaining applicants in the particular priority group in the order in which the names are drawn.

(d) *Notice to unsuccessful bidders; nonperformance by successful bidder.* When an offer for surplus real property has been accepted, the disposal agency shall notify the unsuccessful bidders of such acceptance and return their deposits, if any, to them. If the successful bidder fails to complete the transaction, the disposal agency shall promptly notify by mail all those who made unsuccessful offers during the priority period or any time allowed thereafter that if they renew their offers within fifteen (15) days from the date of mailing of the notice they will be reconsidered on the same basis on which they would have been considered had the offer accepted not been received in the first instance.

(e) *Absence of acceptable offers; methods of sale.* If no acceptable offer is received, the disposal agency shall proceed to dispose of the property by negotiated sale, auction, or other suitable method. Such disposals shall be subject to the price restrictions of paragraph (a) of this section, unless otherwise authorized by the Administration.

§ 8305.20 *Form of conveyance—(a) General.* The deed or instrument of transfer shall be on a form approved by the Attorney General. Disposals shall be by quitclaim deed unless the disposal agency finds that a warranty deed is necessary to obtain a reasonable price for the property or to render the title marketable and unless the use of such a deed is recommended and approved by the Attorney General as provided in the act.

(b) *Conditions in disposal instrument.* Unless otherwise authorized by the Administration, as a part of each disposal pursuant to this part, any priority claimant, or any person acquiring surplus industrial property, shall certify in writing that he is acquiring the property for the uses and purposes set forth in his pro-



posals and (1) if a purchaser, that he is not acquiring it for the purpose of reselling it and in no case will he resell it within three (3) years without first obtaining the written authorization of the Administration; (2) if a lessee, that he will not assign the lease or sublet all of the property without the prior written consent of the Administration, nor will he sublet any portion of the premises without such approval, except as permitted under the terms of the lease: *Provided, however* That no such restriction as to resale shall be imposed upon a conveyance to a former owner, or the tenant of a former owner, acquiring surplus section 23 real property through an exercise of his priority, or upon a conveyance of airport property, or war housing or other structures and improvements sold for removal from the site. If the disposal agency extends credit, the purchaser shall agree that, until full payment is made, he will not resell the property without the prior written authorization of the Administration to such resale. Any deed, lease, or other instrument executed to dispose of property under this part, subject to reservations, restrictions, or conditions, as to the future use, maintenance, or transfer of the property, shall recite all representations and agreements pertaining thereto and may contain a provision to the effect that, upon a breach of any of the reservations, restrictions, or conditions by the immediate or any subsequent transferees, the title, right of possession, or other right disposed of shall, at the option of the Government, revert to the Government upon demand.

§ 8305.21 *Disposal of leasehold interests and improvements by disposal agencies*—(a) *Improvements: leaseholds*. Where surplus real property held only under lease or other similar right of occupancy, with or without improvements thereon, is assigned to a disposal agency for disposition, such disposal agency, subject to the provisions of section 8305.14 of this part, (1) may accept a proposal from a priority holder under this part, in order of priority, or, if there is no priority offeror, then from a non-priority offeror, to assume the obligations of the lease, unless such a transfer is prohibited by the terms of the lease or other instrument under which the interest was acquired, and may dispose of any structures or improvements located on or in the property, subject to such reservations, restrictions and conditions, if any, as the Administration deems necessary properly to protect the interests of the United States, in the following order:

*First*, by any one or more of the following methods:

(i) By disposition of all or a portion thereof to the transferee of the leasehold interest for a consideration that is fair and reasonable under all the circumstances.

(ii) By disposition in accordance with contractual commitments, or

(iii) By transfer to the lessor or owner of the premises in full or partial satisfaction of any obligation to restore the premises, or upon a release by the lessor or owner of a restoration obligation plus

the payment of a consideration that is fair and reasonable under all the circumstances, or

*Second*, by disposition to priority holders under this part, in their order of priority, for removal from the site, or

*Third*, by disposition to nonpriority holders for removal from the site; or

(2) may cancel the lease, by notice or negotiated agreement, and dispose of any structures or improvements located on or in the property, subject to such reservations, restrictions, and conditions, if any, as the Administration deems necessary properly to protect the interests of the United States in the same manner as described in subparagraph (1) above for the disposition of structures and improvements in those cases in which the lease is to be transferred or assigned, except that the method providing for disposition to the transferees or assignee of the leasehold or other similar right of occupancy would not be applicable.

(b) *Improvements, Government-owned land*. In the case of Government-owned land, the disposal agency may dispose of structures and improvements with the land or intact and separate from the land. In either case, disposals shall be subject to applicable provisions of this part.

(c) *Personalty*. Where it is determined that equipment or supplies or other personal property located in or on surplus real property is to be disposed of in conjunction with real property, it may be disposed of with the real property subject to applicable provisions of this part. The disposal agency shall hold such surplus personalty intact until such time as the disposal agency determines in writing that the retention of any part of the personalty will not facilitate the disposition of any or all of the surplus real property, at which time the personalty to be released shall be transferred to the jurisdiction of the agency designated in Part 8301 to dispose of such property. In connection with the leasing of any surplus real property, the disposal agency may sell to the lessee any personal property determined to be necessary for the operation of the realty.

§ 8305.22 *Disposal under authority other than the Surplus Property Act*. Disposals of airport, harbor, or industrial real property shall not be made under other laws, pursuant to section 34 (a) of the act, but shall be made only in strict accordance with the provisions of this part unless the Administrator, upon written application by the owning agency or other interested Government agency, shall consent in writing to a disposal under such other laws.

§ 8305.23 *Functions of the Civil Aeronautics Administration*. In the disposal of surplus airport property under this part, the disposal agency may avail itself of the services of representatives of the Civil Aeronautics Administration in connection with the disposal of surplus airport property, and shall consult with and obtain the recommendations of the Civil Aeronautics Administration in all decisions pertaining to civil aviation. In addition, the Civil Aeronautics Administration shall furnish such technical as-

sistance as the Administrator or the disposal agency may request and the Civil Aeronautics Administration is in a position to provide.

§ 8305.24 *Fissionable materials*. (a) In all disposals of lands hereafter made under the authority and provisions of the act:

(b) In all leases, permits, or other authorizations of whatever kind, hereafter granted to remove minerals from such lands;

(c) In all leases, permits or other authorizations which otherwise would preclude the United States from exercising its right to enter upon such lands and prospect for, mine, and remove minerals, there shall be reserved to the United States all fissionable materials in the lands, together with the right, at any and all times, to enter upon the lands and prospect for, mine, and remove such materials: *Provided*, That no such reservation shall interfere with the primary use of the land established or indicated by any act of Congress, and: *Provided, further* That no such reservation shall be required whenever the Secretary of the Interior shall determine that the land affected does not contain substantial deposits of fissionable materials, or that, in view of all the circumstances, there is no reasonable probability that such materials are present in quantities sufficient to justify their extraction. Unless the lands are within the exceptions above provided, all notices of sale or availability given or published by the disposal agencies shall disclose that the lands involved will be disposed of or sold subject to the reservation of the mineral rights referred to in this section.

§ 8305.25 *Submission to Attorney General and approval by regulatory agencies*—(a) *Attorney General*. In any case in which real property available for disposal hereunder cost \$1,000,000 or more, a complete statement of any proposed disposal to private interests which has been tentatively decided upon, including all information compiled or obtained by the disposal agency, shall be made available by the disposal agency to the Attorney General as required by section 20 of the act.

(b) *Regulatory agencies*. All disposals of surplus transportation property shall be subject to the approval of any regulatory agency, Federal or State, having jurisdiction of such disposal by reason of the type of property involved.

§ 8305.26 *Records and reports*. Owning and disposal agencies shall prepare and maintain such records as will show full compliance with the provisions of this part and with the applicable provisions of the act. Reports shall be prepared and filed with the Administrator in such manner as may be specified by order issued under this part subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

§ 8305.27 *Regulations by agencies to be reported to the Administrator*. Each owning and disposal agency shall file with the Administration copies of all regulations, orders and instructions of general applicability which it may issue

## RULES AND REGULATIONS

in furtherance of the provisions, or any of them, of this part.

§ 8305.28 *Exceptions.* Exceptions to any portions of the procedure set forth in this part may be made by direction of the Administrator where such exception would not be in violation of the act.

This part shall become effective March 17, 1947.

ROBERT M. LITTLEJOHN,  
Administrator

MARCH 17, 1947.

## EXHIBIT A

FEDERAL AGENCIES TO BE GIVEN NOTICE OF  
AVAILABILITY OF SURPLUS REAL PROPERTY

Department of Agriculture.  
Department of Commerce.  
Department of the Interior.  
Department of Labor.  
Department of Justice.  
Department of the Navy.  
Department of State.  
Department of the Treasury.  
Department of War.  
Federal Communications Commission.  
Federal Works Agency.  
Federal Power Commission.  
National Housing Agency.  
Office of Scientific Research and Development.  
Reconstruction Finance Corporation.  
Reconstruction Finance Corporation (Office of Small Business).  
Tennessee Valley Authority.  
United States Maritime Commission.  
Veterans' Administration.

The mailing address of all agencies listed in this exhibit is Washington 25, D. C.

[F. R. Doc. 47-2983; Filed, Mar. 26, 1947;  
12:14 p. m.]

## TITLE 35—PANAMA CANAL

## Chapter I—Canal Zone Regulations

PART 8—CARRYING AND KEEPING OF ARMS;  
HUNTING; FISHING

## FISHING AT GATUN SPILLWAY

Section 8.52 is amended to read as follows, effective March 24, 1947:

§ 8.52 *Fishing at and below Gatun Spillway permitted conditionally.* Fishing at the Gatun Spillway and in the Chagres River within 500 yards below the Spillway apron is authorized only under the following conditions:

(a) Fishing without a pass is prohibited.

(b) Fishing will be permitted only with a rod and reel. The use of hand lines, spears, nets, seines, explosives, or other means is prohibited, excepting that nets and seines may be used for the purpose of obtaining bait only.

(c) Fishing or catching bait from anywhere on the Spillway apron is prohibited.

(d) Fishing from the wall of the Spillway above the railway bridge is prohibited.

(e) Fishing from the wall of the Spillway below the railway bridge is prohibited except from behind the rail fence.

(f) Fishing alone from offshore when standing in the waters of the Chagres River is prohibited.

(g) Two or more adults, who are capable swimmers, will be permitted to fish from offshore when standing in the

waters of the Chagres River, only when wearing cleated fishing shoes, shorts, and a life preserver, either ring or vest type.  
(2 C. Z. Code 5, 7; 48 U. S. C. 1305)

J. C. MEHAFFEY,  
Governor.

MARCH 14, 1947.

[F. R. Doc. 47-2845; Filed, Mar. 26, 1947;  
8:52 a. m.]

## TITLE 36—PARKS AND FORESTS

## Chapter I—National Park Service, Department of the Interior

## PART 2—GENERAL RULES AND REGULATIONS

## GRAZING AND PRIVATE OPERATIONS

1. Paragraph (a) of § 2.20 *Grazing*, is amended to read as follows:

§ 2.20 *Grazing* (a) The running at large, herding, or grazing of livestock of any kind on the Government lands in the parks and monuments, as well as the driving of livestock over the same, is prohibited, except where authority therefor has been granted by the issuance of a revocable permit by the Director or, when authorized by the Director, the appropriate Regional Director as designated in §§ 01.30 and 01.82 of this chapter.

2. Paragraphs (a) and (b) of § 2.31 *Private operations*, are amended to read as follows:

§ 2.31 *Private operations.* (a) No person shall reside permanently in a park or monument, except National Park Service employees or other persons authorized to do so by law or by the issuance of a revocable permit by the Director or, when authorized by the Director, the appropriate Regional Director as designated in §§ 01.30 and 01.82 of this chapter.

(b) No person, firm, or corporation shall engage in or solicit any business, or erect buildings in a park or monument, without a revocable permit from the Director or, when authorized by the Director, the appropriate Regional Director as designated in §§ 01.30 and 01.82 of this chapter. Applications for such permission may be addressed to the superintendent or custodian of the area involved.

(Sec. 3, 39 Stat. 535; 16 U. S. C. 3)

Issued this 14th day of March 1947.

[SEAL] C. GIRARD DAVIDSON,  
Assistant Secretary of the Interior

[F. R. Doc. 47-2834; Filed, Mar. 26, 1947;  
8:48 a. m.]

## TITLE 39—POSTAL SERVICE

## Chapter I—Post Office Department

## PART 21—INTERNATIONAL POSTAL SERVICE

## SERVICE TO DENMARK; ALPHABETICAL LIST

The regulations under the country "Denmark" (39 CFR, Part 21), are amended as follows:

Change the table "Limit of indemnity" under the item "Insurance", to read as follows:

Limit of indemnity	Fee (cents)
Not over \$10.....	20
From \$10.01 to \$25.....	25
From \$25.01 to \$50.....	35
From \$50.01 to \$100.....	55
From \$100.01 to \$165.....	60

(R. S. 161, 396, sec. 304, 309, 42 Stat. 24, 25; 5 U. S. C. 22, 369)

This change shall be effective as of April 1, 1947.

[SEAL] J. M. DONALDSON,  
Acting Postmaster General.

[F. R. Doc. 47-2843; Filed, Mar. 26, 1947;  
8:52 a. m.]

TITLE 43—PUBLIC LANDS:  
INTERIOR

## Subtitle A—Office of the Secretary of the Interior

[Order 2306]

## PART 4—DELEGATIONS OF AUTHORITY

BUREAU OF MINES; SOUTHWESTERN POWER  
ADMINISTRATION

Sections 4.360 and 4.860 are added to Part 4 to read as follows:

## SUBPART D—BUREAU OF MINES

§ 4.360 *Drilling contracts.* (a) Irrespective of the amount involved, the Director of the Bureau of Mines may enter into drilling contracts—B. of M. Form 6-758—in conformity with applicable regulations and statutory requirements and subject to the availability of appropriations. Secretarial approval is not a condition precedent to the consummation of a binding drilling contract unless the Secretary by a written order published in the FEDERAL REGISTER specifically prescribes such a requirement. However, the Director of the Bureau of Mines may request Secretarial approval of any proposed drilling contract. The authority granted by this paragraph includes the authority to issue change orders and extra work orders pursuant to a contract, to enter into modifications of a contract which are legally permissible, and to terminate a contract if such action is legally authorized.

(b) The Director of the Bureau of Mines may redelegate the authority granted in paragraph (a) of this section to subordinate officials and employees of the Bureau. Each such redelegation shall be published in the FEDERAL REGISTER.

SUBPART L—SOUTHWESTERN POWER  
ADMINISTRATION

§ 4.860 *Construction contracts.* (a) Irrespective of the amount involved, the Administrator of the Southwestern Power Administration may enter into construction contracts in conformity with applicable regulations and statutory requirements and subject to the availability of appropriations. Secretarial approval is not a condition precedent to the consummation of a binding construction contract unless the Secretary by a written order published in the FEDERAL REGISTER specifically prescribes such a requirement with respect to a particular construction contract or type

of construction contract, or unless Secretarial approval is specifically required by statute. However, the Administrator may request Secretarial approval of any proposed construction contract. The authority granted by this paragraph includes the authority to issue change orders and extra work orders pursuant to a contract, to enter into modifications of a contract which are legally permissible, and to terminate a contract if such action is legally authorized. The Administrator may redelegate to subordinate officials and employees of the Administration or to the Purchasing Officer of the Department the authority granted in this paragraph. Each such redelegation shall be published in the **FEDERAL REGISTER**.

(b) Except in those cases in which they are contracting officers, the Administrator and the Assistant Administrator are designated as the authorized representatives of the Secretary (1) within the meaning of Articles 3 and 4 of the United States Standard Form 23, Construction Contract, and (2) for the purpose of extending the time within which a contractor may notify a contracting officer of the causes of a delay pursuant to Article 9 of Standard Form 23.

(c) This section is not intended to affect any requirement that proposed programs be cleared with the Office of the Secretary prior to their inauguration. The Administrator shall make such reports concerning the exercise of the authority granted by this section as the Secretary may require.

(Secs. 3, 12, Pub. Law 404, 79th Cong., 60 Stat. 237, 244)

J. A. KRUG,  
Secretary of the Interior.

MARCH 19, 1947.

[F. R. Doc. 47-2838; Filed, Mar. 26, 1947;  
8:49 a. m.]

## Chapter I—Bureau of Land Management, Department of the Interior

### PART 162—LIST OF ORDERS CREATING AND MODIFYING GRAZING DISTRICTS

#### ARIZONA GRAZING DISTRICT NO. 4

CROSS REFERENCE: For order affecting the tabulation contained in § 162.1, see Misc. 2073492 under Department of the Interior, Bureau of Land Management, in the Notices section, *infra*, relating to lands in Arizona Grazing District No. 4.

## Appendix—Public Land Orders

[Public Land Order 361]

### ALASKA

#### REVOKING PUBLIC LAND ORDER 32 OF AUGUST 18, 1942 WITHDRAWING PUBLIC LANDS IN AID OF DEFINITE LOCATION AND CONSTRUCTION OF TRANS-CANADIAN ALASKAN RAILWAY

By virtue of the authority vested in the President and pursuant to Executive

Order No. 9337 of April 24, 1943, it is ordered as follows:

Public Land Order No. 32 of August 18, 1942, withdrawing the public lands in the following-described area in aid of definite location and construction of the Trans-Canadian Alaska Railway, is hereby revoked:

Tanana Valley Area, Alaska; Kobe to Richardson Highway.

A strip of land 10 miles wide, 5 miles on each side of the center line shown on the map dated July 2, 1942, No. 1924965, on file in the General Land Office, described as follows:

Beginning at Kobe, on the Alaska Railroad, thence east approximately 60 miles to the 147th meridian of longitude;

Thence S. 70° E., approximately 40 miles to the Richardson Highway.

The area described, including both public and non-public lands, aggregates approximately 680,000 acres.

This order shall not otherwise become effective to change the status of such lands until 10:00 a. m. on May 21, 1947. At that time the lands, which are all unsurveyed, shall, subject to valid existing rights and the provisions of any existing withdrawals, become subject to settlement and other forms of appropriation in accordance with applicable laws and regulations.

The land is located north of the Alaska Range and for the most part lies in the southern portion of the Tanana Valley. It is generally level to rough in topography, being cut up by numerous rivers and streams flowing northwest into the Tanana River.

C. GIRARD DAVIDSON,  
Assistant Secretary of the Interior.

MARCH 19, 1947.

[F. R. Doc. 47-2835; Filed, Mar. 26, 1947;  
8:49 a. m.]

## TITLE 49—TRANSPORTATION AND RAILROADS

### Chapter I—Interstate Commerce Commission

[S. O. 260, Amdt. 7]

#### PART 95—CAR SERVICE

##### SALTING OF ICE ON CARS OF CITRUS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 21st day of March A. D. 1947.

Upon further consideration of the provisions of Service Order No. 260 (9 F. R. 14547) as amended (10 F. R. 4818; 11 F. R. 8452, 13639; 12 F. R. 48, 128, 1394), and good cause appearing therefor: It is ordered, that:

Section 95.260 *Salting of ice on cars of citrus*, of Service Order No. 260, as amended, be, and it is hereby, further amended by adding the following exception to paragraph (a) thereof:

*Exception:* The provisions of this order, during the effectiveness of this amendment, shall not apply to the salting, at regular icing stations enroute,

with not to exceed three percent (3%) salt, of ice in the bunkers of refrigerator cars, shipped from any origin in the State of Texas, loaded with straight carloads of oranges or grapefruit or mixed carloads of oranges and grapefruit.

*Effective date.* This amendment shall become effective at 12:01 a. m., March 25, 1947.

*Expiration date.* This amendment shall expire at 11:59 p. m., June 30, 1947.

It is further ordered, that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901; 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL]

W. P. BARTEL,  
Secretary.

[F. R. Doc. 47-2861; Filed, Mar. 26, 1947;  
8:54 a. m.]

[S. O. 639, Amdt. 1]

#### PART 95—CAR SERVICE

##### STOCK CARS FOR PETROLEUM PRODUCTS CONTAINERS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 21st day of March A. D. 1947.

Upon further consideration of Service Order No. 699 (12 F. R. 1841), and good cause appearing therefor: It is ordered, that:

Service Order No. 699, *Stock cars for petroleum products containers* (49 CFR § 95.699) be, and it is hereby, amended by substituting the following paragraph (a) for paragraph (a) thereof:

§ 95.699 *Substitution of single deck stock cars for fifty foot box cars, to transport empty containers for petroleum products.* (a) Common carriers by railroad subject to the Interstate Commerce Act transporting empty containers for petroleum products, in carloads, from origins located in the States of Illinois, Indiana, Missouri, Kansas, Oklahoma, Arkansas, or Texas, to destinations in the States of Kansas, Arkansas, Texas, Oklahoma, or New Mexico, may, at their option, furnish and transport not more than two (2) single deck stock cars in lieu of each fifty foot (50') box car ordered, subject to the carload minimum weight which would have applied if the shipment had been loaded in a fifty foot (50') box car.

It is further ordered, that this amendment shall become effective at 12:01

a. m., March 24, 1947; that a copy of this order and direction be served upon the State railroad-regulatory bodies of the States of Kansas, Arkansas, Oklahoma, and Texas, and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem

agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901, 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL]

W. F. BARTEL,  
Secretary.

[F. R. Doc. 47-2862; Filed, Mar. 20, 1947;  
8:54 a. m.]

## PROPOSED RULE MAKING

### FEDERAL POWER COMMISSION

#### [18 CFR, Part 167]

[Docket No. R-102]

#### DETERMINATION OF SERVICE AREAS OF NATURAL GAS COMPANIES

##### NOTICE OF PROPOSED RULE MAKING

MARCH 21, 1947.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. It is proposed to adopt a general rule with respect to the determination of service areas of natural-gas companies subject to the jurisdiction of the Commission under the Natural Gas Act, as amended, to permit these companies to make, without further authorization from the Commission, certain enlargements or extensions of their facilities for the purpose of supplying increased market demands in the areas being served by the companies under certificates of public convenience and necessity issued by the Commission. This rule is proposed to be issued pursuant to the authority permitted the Federal Power Commission by the Natural Gas Act, as amended, particularly sections 7 (f) and 16 thereof (52 Stat. 824, 56 Stat. 83, 52 Stat. 830, 15 U. S. C. and Sup. 717f, 15 U. S. C. 717o).

3. Many different and conflicting situations are involved in determining a service area for each natural-gas company under section 7 (f). Because of the evident need for careful study and investigation of these problems, and the lack of manpower which could be assigned to this matter under the war-time conditions existing for several years after the passage of the 1942 amendments of section 7, it has been necessary for the Commission to defer this work. Recognizing the need, however, as soon as conditions might permit, for giving effect on a reasonable basis to the intent of section 7 (f), the Commission has had this subject under active consideration during the past year, particularly in connection with its Natural Gas Investigation in Docket No. G-580. From this investigation it has become clear that the intent of Congress as expressed in section 7 (f) can be effectuated, and the administration of the certificate provisions of section 7 can be facilitated in the public interest, if service-area authorizations are granted at this time by a general rule of uniform applicability rather than by separate proceedings conducted for the purpose of determining a service-area authorization for each natural-gas company individually.

4. The provisions of the rule proposed herein are substantially as outlined in the staff report on this subject relative to the Natural Gas Investigation in Docket No. G-580, entitled "Administration of the Certificate Provisions of Section 7 of the Natural Gas Act," which was submitted for comment to natural-gas companies and other interested parties under date of January 17, 1947, with replies requested as of February 15, 1947.

5. In accordance, therefore, with the intention of Congress, as expressed in section 7 (f) to provide, at the discretion of the Commission, reasonable latitude to natural-gas companies to enlarge and extend their facilities for the purpose of supplying increased requirements of the markets which they serve, the Commission proposes in the public interest to adopt a general rule with respect to the determination of service areas of natural-gas companies and to issue such rule as a new part of subchapter E, Regulations under Natural Gas Act, Chapter I of Title 18, Code of Federal Regulations, said new part to provide as follows:

#### PART 167—ENLARGEMENT OR EXTENSION OF FACILITIES TO SUPPLY INCREASED MAR- KET DEMANDS IN SERVICE AREAS OF NAT- URAL GAS COMPANIES

§ 167.1 *Service areas defined.* For the purpose of administering section 7 (f) of the Natural Gas Act by general authorization applicable to all natural-gas companies under the Act, a service area of a natural-gas company is an area of service defined as follows: (a) The service rendered to existing customers and markets, and the facilities certificated or authorized therefor; (b) a 10-percent increase of the total service rendered to existing customers and markets within any calendar year, and the facilities required therefor; (c) subject to the foregoing limits, service to new customers who will receive not more than 75,000 Mcf each per year, and the facilities required therefor; and (d) any additional facilities for improving service and replacing equipment which will not increase the delivery capacity of the transmission system, all of the foregoing as provided more specifically herein-after.

§ 167.2 *General authorization of 10 percent annual increase in system daily delivery capacity.* Each natural-gas company subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act, as amended, is hereby authorized to enlarge or extend its facilities so as to increase the daily delivery capacity of its transmission sys-

tem to a maximum extent of 10 percent in any calendar year for the purpose of supplying the increased requirements of customers being served under certificates of public convenience and necessity issued by the Commission, and minor new customers as hereinafter specified.

(a) *Capacity increase in 1947* In determining the maximum increase in delivery capacity permissible for the year 1947 under the authorization herein granted, a natural-gas company shall use 10 percent of the installed delivery capacity of its transmission system, calculated as of the effective date of this order. Within thirty days of such date, each natural-gas company affected by this order shall file with the Commission a statement of the installed delivery capacity of its system as of the effective date of this order, together with such explanation as may be necessary of the method of formula by which such capacity has been determined.

(b) *Capacity increase after 1947* The authorization for each year thereafter shall be based upon the installed capacity as of January 1 of the calendar year during which the additions are to be made. Within thirty days after the beginning of each calendar year, any natural-gas company affected by this authorization shall file with the Commission a statement of the installed delivery capacity of its system as of January 1 of that year, together with such explanation as may be necessary of the method or formula by which such capacity has been determined.

(c) *Types of facilities authorized.* The authorization granted herein, as limited above, shall extend to all facilities which are to be installed for the purpose of increasing the delivery capacity of the natural-gas company's transmission system, including such facilities as additional pipe lines, compressors, compressor stations and any other facilities which increase the capacity of the transmission system or any part thereof.

(d) *Notice of intention required.* A natural-gas company desiring to enlarge its facilities under the authorization granted herein shall file with the Commission at least thirty days prior to the commencement of the construction of such additional facilities written notification of its intention so to do, and shall include in such notice a concise description of the facilities proposed; a map showing their location; the capacity increase contemplated; the additional gas reserves; if any, to be dedicated; the reasons for the installation; the estimated cost of the facilities; the method of financing; the proposed date of begin-

ning of construction; and the date at which the construction is expected to be completed and placed in operation.

(e) *General authorization may be suspended.* The Commission reserves the right to suspend the operation of the general authorization granted herein, with reference to any proposed enlargement or extension of facilities, and to require a natural-gas company to file an application in accordance with the provisions of section 7 of the Natural Gas Act, as amended, and to obtain a certificate of public convenience and necessity prior to undertaking the construction, extension or operation of facilities which otherwise might have been constructed in accordance with the authorization granted herein.

§ 167.3 *General authorization of additional types of facilities.* In addition to the authorization hereinbefore granted, a natural-gas company is further authorized to install and operate the following types of facilities:

(a) *Auxiliary facilities.* All necessary auxiliary facilities which do not increase the transmission system delivery capacity, such as, for example, scrubbers, dehydration equipment, electrical equip-

ment in compressor stations, water pipe lines and cooling equipment at pumping stations, incidental buildings and structures, and similar facilities.

(b) *Connecting facilities for minor new customers.* Incidental connecting facilities which are necessary to extend natural-gas service to minor new customers, for their own consumption or for resale, whose annual consumption in each instance will not exceed 75,000 Mcf—such as villages, "farm taps," alfalfa drying plants, drilling and pumping requirements in gas or oil fields, and the like in rural areas adjacent to the transmission lines of a natural-gas company. All such customers added during each year shall be reported annually in a supplement to Schedule 434 of F. P. C. Form No. 2.

(c) *Replacement or relocation of facilities.* Facilities which constitute the replacement or relocation of existing facilities in service, where no reduction or abandonment of a general service or service to a particular customer is involved.

(d) *Additional metering points and lateral lines.* Facilities necessary to the establishment of additional metering points or lateral lines required for serv-

ice to customers in local communities already being served.

§ 167.4 *Reservations as to rate and accounting requirements.* The authorizations granted herein are without prejudice to future determinations by the Commission in proceedings involving accounting requirements or the fixing of rates of natural-gas companies; and the construction and operation of facilities under these authorizations shall not constitute an acceptance by the Commission that all such facilities are necessary in the operations of a natural-gas company.

§ 167.5 *Subsequent actions not precluded.* The authorizations granted herein will not preclude the consideration of any subsequent actions which may be shown to be appropriate in order to effectuate the purposes of section 7 (f) of the Natural Gas Act, as amended.

6. Interested persons are given until April 21, 1947, to submit written statements or briefs setting forth their comments, views and suggestions with respect to this proposed rule.

[SEAL]

LEON M. FUQUAY,  
Secretary.

[F. R. Doc. 47-2263; Filed, Mar. 26, 1947;  
8:50 a. m.]

## NOTICES

### TREASURY DEPARTMENT

#### United States Coast Guard

[CGFR 47-9]

#### APPROVAL AND TERMINATION OF APPROVAL OF EQUIPMENT

##### Correction

In Federal Register Document 47-1957, appearing at page 1466 of the issue for Tuesday, March 4, 1947, the first line of the paragraph under the heading "Winch" should read "Landley Type WH-5 electric boat"

### DEPARTMENT OF JUSTICE

#### Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 8393]

CARL H. RICHTER

In re: Estate of Carl H. Richter, deceased. File D-28-11152; E. T. sec. 15563.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Mrs. Anna Widmann, whose last known address is Germany, is a

No. 61—5

resident of Germany and a national of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof in and to the estate of Carl H. Richter, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany).

3. That such property is in the process of administration by Charles F. Roeckel, 35 Prospect Park West, Brooklyn, New York, as executor, acting under the judicial supervision of the Surrogate's Court, Steuben County, Bath, New York;

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 6, 1947.

For the Attorney General.

[SEAL]

DONALD C. COOK,  
Director.

[F. R. Doc. 47-2263; Filed, Mar. 26, 1947;  
8:50 a. m.]

[Vesting Order 8468]

TOKIZO KATAYAMA AND KUMAICHI  
TAKENAGA

In re: Personal property owned by the personal representatives, heirs, next of kin, legatees and distributees of Tokizo Katayama, deceased, and personal property owned by the personal representatives, heirs, next of kin, legatees and distributees of Kumaichi Takenaga, deceased.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the personal representatives, heirs, next of kin, legatees and distributees of Tokizo Katayama, deceased, who there is reasonable cause to believe are residents of Japan, are nationals of a designated enemy country (Japan)

2. That the personal representatives, heirs, next of kin, legatees and distributees of Kumaichi Takenaga, deceased, who there is reasonable cause to believe are residents of Japan, are nationals of a designated enemy country (Japan),



3. That the property described as follows:

- 1 Ingersoll Radcliffe man's wrist watch number 64892959,
- 1 Biltmore man's watch number 1022, —
- 1 yellow metal man's signet ring,
- 1 yellow metal penknife,
- 1 metal watch chain,

presently in the possession of the Attorney General of the United States in an account numbered 39-200,019,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by the personal representatives, heirs, next of kin, legatees and distributees of Tokizo Katayama, deceased, the aforesaid nationals of a designated enemy country (Japan),

4. That the property described as follows:

- 1 Hampden yellow metal man's pocket watch,
- 1 metal chain,

presently in the possession of the Attorney General of the United States in an account numbered 39-200,019,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by the personal representatives, heirs, next of kin, legatees and distributees of Kumaichi Takenaga, deceased, the aforesaid nationals of a designated enemy country (Japan)

and it is hereby determined:

5. That to the extent that the personal representatives, heirs, next of kin, legatees and distributees of Tokizo Katayama, deceased, and the personal representatives, heirs, next of kin, legatees and distributees of Kumaichi Takenaga, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Japan)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 20, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,  
Director

[F. R. Doc. 47-2830; Filed, Mar. 25, 1947;  
8:50 a. m.]

[Vesting Order 8405]

JOHN SZENDZINA

In re: Estate of John Szendzina, deceased. File D-28-3586; E. T. sec. 5792.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the domiciliary personal representatives, heirs, next of kin, legatees and distributees of Anton Szendzina, deceased, who there is reasonable cause to believe are resident of Germany, are nationals of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraph 1 hereof, and each of them, in and to the estate of John Szendzina, deceased, is property payable or deliverable to, or claimed by the aforesaid nationals of a designated enemy country (Germany)

3. That such property is in the process of administration by Treasurer of Cook County, Chicago, Illinois, as depository, acting under the judicial supervision of the Probate Court of Cook County, Chicago, Illinois.

and it is hereby determined:

4. That to the extent that the domiciliary personal representatives, heirs, next of kin, legatees and distributees of Anton Szendzina, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 7, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,  
Director.

[F. R. Doc. 47-2870; Filed, Mar. 26, 1947;  
8:50 a. m.]

[Vesting Order 8432]

ARTHUR ROHDE

In re: Estate of Arthur Rohde, deceased. File No. D-28-10406; E. T. sec. 14797.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Execu-

tive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the heirs at law, next of kin, legatees, distributees, and personal representatives of Arthur Rohde, deceased, whose names are unknown, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraph 1 hereof, and each of them, in and to the estate of Arthur Rohde, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany),

3. That such property is in the process of administration by Joseph V. Costello, as Administrator of the Estate of Arthur Rohde, deceased, acting under the judicial supervision of the Middlesex County Orphans' Court, New Brunswick, New Jersey;

and it is hereby determined:

4. That to the extent that the heirs at law, next of kin, legatees, distributees, and personal representatives of Arthur Rohde, deceased, whose names are unknown, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 12, 1947.

For the Attorney General.

[SEAL] DONALD C. COOK,  
Director

[F. R. Doc. 47-2871; Filed, Mar. 26, 1947;  
8:50 a. m.]

[Vesting Order 8434]

WILLIAM ZIMMERMAN

In re: Estate of William Zimmerman, deceased. File No. D-28-8972; E. T. sec. 11339.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Agatha Zimmerman Hillmer and William Zimmerman, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany),

2. That the sum of \$2,900.00 was paid to the Alien Property Custodian by Jo-

seph L. Paradise, Executor of the Estate of William Zimmerman, deceased;

3. That the said sum of \$2,900.00 is presently in the possession of the Attorney General of the United States and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany)

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property in the Alien Property Custodian by acceptance thereof on September 4, 1946, pursuant to the Trading with the Enemy Act, as amended.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 12, 1947.

For the Attorney General.

[SEAL]

DONALD C. COOK,  
Director

[F. R. Doc. 47-2872; Filed, Mar. 26, 1947;  
8:50 a. m.]

[Vesting Order 8438]

DIETRICH REIL ET AL.

In re: Dietrich Reil vs. Fred Reil, et al. File D-28-11223; E. T. sec. 15596.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Johann Reil (son of Heinrich Reil, deceased) Frieda Schroeder, Helena Diskus, Fritz Reil (son of Heinrich Reil, deceased) Anna Margarete Frahmman, also known as Meta Frahmman, Helene Koenig, Anna Diers, Johann Reil (son of John Reil, deceased) Fritz Reil, also known as Fred Reil (son of John Reil, deceased) Marie Schmidt, Anna Pley, Johanne Wilhelmine Reil, Elisabeth Reil, Wilhelm Reil, Anna Jurgens-Tatje, Margarete Jantzen, also known as Grete Jantzen, Marie Wordtmann and Fritz Jurgens-Tatje, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany),

2. That the property described as follows: All right, title, interest and estate, both legal and equitable, of the persons named in subparagraph 1 hereof in and to that certain real property particularly described as Southwest quarter of Section 29, township 122 North Range 49 west of 5th Principal Meridian, Roberts County, South Dakota, together with all hereditaments, fixtures, improvements and appurtenances thereto, and any and all claims for rents, refunds, benefits or other payments arising from the ownership of such property,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, and is property which is in partition, libel, condemnation or other similar proceedings in the Circuit Court, Fifth Judicial Circuit, Roberts County, South Dakota, which is payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 12, 1947.

For the Attorney General.

[SEAL]

DONALD C. COOK,  
Director

[F. R. Doc. 47-2873; Filed, Mar. 26, 1947;  
8:52 a. m.]

[Vesting Order 8433]

FRED REIL

In re: Estate of Fred Reil, deceased. File D-28-11223; E. T. sec. 15596.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Johann Reil, son of Heinrich Reil, deceased, Frieda Schroeder, Helena Diskus, Fritz Reil, son of Heinrich Reil, deceased, Anna Margarete Frahmman, called Meta, Helene Koenig, Anna Diers, Johann Reil, son of John Reil, deceased, Fritz (Fred) Reil, son of John Reil, deceased, Marie Schmidt, Anna Pley, Jo-

hanne Wilhelmine Reil, Elisabeth Reil, Wilhelm Reil, Anna Jurgens-Tatje, Margarete (Grete) Jantzen, Marie Wordtmann and Fritz Jurgens-Tatje, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the estate of Fred Reil, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany)

3. That such property is in the process of administration by Henry Reil, as administrator, acting under the judicial supervision of the Probate Court of Nez Perce County, State of Idaho;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on March 12, 1947.

For the Attorney General.

[SEAL]

DONALD C. COOK,  
Director

[F. R. Doc. 47-2374; Filed, Mar. 26, 1947;  
8:52 a. m.]

[Vesting Order 7685, Amdt.]

JACOB SCHMID

In re: Bond owned by and debt owing to Jacob Schmid. F-28-23513-A-1, F-28-23513-C-1.

Vesting Order 7685, dated September 19, 1946, is hereby amended as follows and not otherwise:

By deleting the phrase "registered in the name of Jacob Schmid, Grossalfalterbach, Post Batzhausen, Oberpfaltz, Bayern, Germany," in subparagraph 2-a of said Vesting Order 7685;

By deleting subparagraph 2-b of said Vesting Order 7685, and substituting therefor the following:

(b) That certain debt or other obligation owing to Jacob Schmid, by Central Savings Bank in The City of New York, Broadway at Seventy-third Street, New York, New York, arising out of a savings account, account number 1,022,852, en-

titled Jacob Schmid, and any and all rights to demand, enforce and collect the same.

All other provisions of said Vesting Order 7685 and all actions taken by or on behalf of the Alien Property Custodian or the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on March 17, 1947.

For the Attorney General.

[SEAL]

DONALD C. COOK,   
 Director.

[F. R. Doc. 47-2875; Filed, Mar. 26, 1947; 8:52 a. m.]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[Misc. 2073492]

#### ARIZONA

#### ORDER PROVIDING FOR OPENING OF PUBLIC LANDS

MARCH 17, 1947.

In an exchange of lands made under the provisions of section 8 of the act of June 28, 1934 (48 Stat. 1269) as amended June 26, 1936 (49 Stat. 1976; 43 U. S. C. 315g) the lands hereinafter described have been reconveyed to the United States.

At 10:00 a. m. on May 19, 1947, the lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection as follows:

(a) *Ninety-day period for preference-right filings.* For a period of 90 days from May 20, 1947, to August 18, 1947, inclusive, the public lands affected by this order shall be subject to (1) application under the homestead or the desert land laws, or the small tract act of June 1, 1938 (52 Stat. 609, 43 U. S. C. sec. 682a), as amended, by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. secs. 279-283) subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications by such veterans shall be subject to claims of the classes described in subdivision (2)

(b) *Twenty-day advance period for simultaneous preference-right filings.* For a period of 20 days from April 30, 1947, to May 19, 1947, inclusive, such veterans and persons claiming preference rights superior to those of such veterans, may present their applications, and all such applications, together with those presented at 10:00 a. m. on May 20, 1947, shall be treated as simultaneously filed.

(c) *Date for non-preference right filings authorized by the public-land laws.* Commencing at 10:00 a. m. on August 19, 1947, any of the lands remaining

unappropriated shall become subject to such application, petition, location, or selection by the public generally as may be authorized by the public-land laws.

(d) *Twenty-day advance period for simultaneous nonpreference right filings.* Applications by the general public may be presented during the 20-day period from July 30, 1947, to August 18, 1947, inclusive, and all such applications, together with those presented at 10:00 a. m. on August 19, 1947, shall be treated as simultaneously filed.

Veterans shall accompany their applications with certified copies of their certificates of discharge, or other satisfactory evidence of their military or naval service. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated affidavits in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the District Land Office at Phoenix, Arizona, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations (Circular No. 324, May 22, 1914, 43 L. D. 254), and Part 296 of that Title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of Title 43 of the Code of Federal Regulations and applications under the desert land laws and the small tract act of June 1, 1938, shall be governed by the regulations contained in Parts 232 and 257, respectively, of that Title.

Inquiries concerning these lands shall be addressed to the District Land Office at Phoenix, Arizona.

The lands affected by this order are described as follows:

#### GILA AND SALT RIVER MERIDIAN

- T. 4 S., R. 23 E., sec. 2, N $\frac{1}{2}$ N $\frac{1}{2}$ .
- T. 4 S., R. 25 E.,  
Sec. 17, W $\frac{1}{2}$ .
- Sec. 20, W $\frac{1}{2}$ .
- Sec. 32.
- T. 5 S., R. 25 E., secs. 16, 32, and 36.
- T. 5 S., R. 26 E., sec. 32.
- T. 5 S., R. 27 E., sec. 27.
- T. 6 S., R. 21 E., sec. 2.
- T. 6 S., R. 25 E., sec. 2.
- T. 8 S., R. 29 E., secs. 11 and 32.

The areas described aggregate 7,105.58 acres. These lands, which are in Grazing District No. 4, are located in Graham County, just south of the San Carlos Indian Reservation. They are hilly to mountainous desert lands.

FRED W. JOHNSON,   
 Director

[F. R. Doc. 47-2836; Filed, Mar. 26, 1947; 8:49 a. m.]

#### ALASKA

#### SHORE SPACE RESTORATION NO. 387

By virtue of the authority contained in the act of June 5, 1920 (41 Stat. 1059, 48 U. S. C. sec. 372), it is ordered as follows:

Subject to valid existing rights and the provisions of existing withdrawals, the

80-rod shore space reserve created under the act of May 14, 1898 (30 Stat. 409), as amended by the act of March 3, 1903 (32 Stat. 1028, 48 U. S. C. sec. 371), is hereby revoked as to the following described land:

#### TERRITORY OF ALASKA

A tract of land identified as U. S. Survey No. 2355, situated approximately 1 $\frac{1}{4}$  miles east of Sitka, Alaska, Latitude 57°02'50" N., Longitude 135°08' W. (homestead entry of Vernon Lee Hunkins, Anchorage 03677).

The area described contains 0.62 acre.

WARNER W. GARDNER,   
 Assistant Secretary of the Interior

MARCH 17, 1947.

[F. R. Doc. 47-2837; Filed, Mar. 26, 1947; 8:49 a. m.]

## INTERSTATE COMMERCE COMMISSION

[S. O. 396, Special Permit 143]

#### RECONSIGNMENT OF POTATOES AT PHILADELPHIA, PA.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at Philadelphia, Pa., March 19, 1947, by Dan Storey, of car PFE45894, potatoes, now on the Pennsylvania RR. Produce Terminal, to Dan Storey, Broad and Washington Avenues, Philadelphia, Pa. (P RR.).

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 19th day of March 1947.

V. C. CLINGER,   
 Director,   
 Bureau of Service.

[F. R. Doc. 47-2858; Filed, Mar. 26, 1947; 8:54 a. m.]

[S. O. 396, Special Permit 144]

#### RECONSIGNMENT OF POTATOES AT PHILADELPHIA, PA.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at Philadel-

phia, Pa., March 19 or 20, 1947, by Dan Storey, of car FGE 35026; potatoes, now on the Pennsylvania RR. at Engleside Station, to A. J. Weinstein Co., New York, N. Y. (P. RR.)

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 19th day of March 1947.

V. C. CLINGER,  
Director  
Bureau of Service.

[F. R. Doc. 47-2859; Filed, Mar. 26, 1947;  
8:54 a. m.]

[S. O. 396, Special Permit 145]

#### RECONSIGNMENT OF APPLES AT MINNEAPOLIS, MINN.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at Minneapolis, Minn., March 20, 1947, by C. C. Smith Fruit Co., of car FGE 33003, apples, now on the Great Northern Ry., to C. H. Robinson Co., Milwaukee, Wis.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 20th day of March 1947.

V. C. CLINGER,  
Director  
Bureau of Service.

[F. R. Doc. 47-2860; Filed, Mar. 26, 1947;  
8:54 a. m.]

#### OFFICE OF TEMPORARY CONTROLS

##### Civilian Production Administration

[C-483]

ROSEBURG LUMBER CO.

##### CONSENT ORDER

Roseburg Lumber Co., a corporation, Box 1091, Roseburg, Oregon, operates a

sawmill in Roseburg, Oregon, and is engaged in business as a "sawmill" as defined by Direction 1 to Priorities Regulation 33, as amended August 28, 1946 and as subsequently amended. The corporation is charged by the Civilian Production Administration with violating Direction 1 to Priorities Regulation 33, in failing to hold for and ship upon certified or rated orders during the month of September, 1946, 50% of its production during said month, although it had received and had on hand valid, certified or rated orders for such an amount. The corporation admits the violation as charged, does not desire to contest the same and has consented to the issuance of this order.

Wherefore, upon the agreement and consent of Roseburg Lumber Co., a corporation, the Regional Compliance Director and the Regional Attorney, and upon the approval of the Compliance Commissioner, *It is hereby ordered, That:*

(a) Roseburg Lumber Co., a corporation, its successors or assigns, shall during the months of March 1947 to June, 1947, inclusive, insofar as its Roseburg mill is concerned, produce and accept and sell on rated orders, 10% more housing construction lumber than may be required during said period by current applicable Civilian Production Administration regulations.

(b) Roseburg Lumber Co., a corporation, its successors or assigns, shall keep and preserve accurate and complete records of the details of each transaction to which regulations and orders of the Civilian Production Administration apply, as required by Section 944.15 of Priorities Regulation 1.

(c) Nothing contained in this order shall be deemed to relieve the Roseburg Lumber Co., a corporation, its successors and assigns, from any restriction, prohibition or provision contained in any order or regulation of Civilian Production Administration, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 26th day of March 1947.

CIVILIAN PRODUCTION  
ADMINISTRATION,  
By J. JOSEPH WHELAN,  
Recording Secretary.

[F. R. Doc. 47-2942; Filed, Mar. 26, 1947;  
11:17 a. m.]

[C-497]

ANTHONY M. PIUNNO

##### CONSENT ORDER

Anthony M. Piunno, 1037 Ivanhoe Road, Cleveland, Ohio, is charged by the Civilian Production Administration with violating Veterans' Housing Program Order No. 1 in that on or about October 8, 1946 he began construction and thereafter carried on and participated in the construction of a one-story cement block structure to be used for commercial garage and storage purposes located at 1037 Ivanhoe Road, Cleveland, Ohio, at a cost in excess of \$1,000 without authorization of the Civilian Production Administration.

Anthony M. Piunno admits the violation as charged and has consented to the issuance of this order.

Wherefore, upon the agreement and consent of Anthony M. Piunno, the Regional Compliance Director and the Regional Attorney, and upon the approval of the Compliance Commissioner, *It is hereby ordered, That:*

(a) Neither Anthony M. Piunno, his successors and assigns, nor any other person shall do any further construction on the premises located 1037 Ivanhoe Road, Cleveland, Ohio, including the putting up, completing, or altering the cement block structure to be used for commercial garage and storage purposes located on said premises, unless hereafter specifically authorized in writing by the Civilian Production Administration.

(b) Anthony M. Piunno shall refer to this order in any application or appeal which he may file with the Civilian Production Administration for priorities assistance or for authority to carry on construction.

(c) Nothing contained in this order shall be deemed to relieve Anthony M. Piunno, his successors and assigns, from any restriction, prohibition or provision contained in any other order or regulation of the Civilian Production Administration, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 26th day of March 1947.

CIVILIAN PRODUCTION  
ADMINISTRATION,  
By J. JOSEPH WHELAN,  
Recording Secretary.

[F. R. Doc. 47-2943; Filed, Mar. 26, 1947;  
11:17 a. m.]

[C-506]

BEACH DRIVE, INC.

##### CONSENT ORDER

Beach Drive, Inc., a New York corporation located at 813 Roosevelt Street, Far Rockaway, L. I., N. Y., is engaged in the building construction business. Nathan Tannenbaum is Treasurer of said corporation. Beach Drive, Inc. is charged by the Civilian Production Administration with violations of Veterans' Housing Program Order 1 in that (1) on or about August 28, 1946 it began construction, repairs, additions and alterations, without authorization, and at a cost in excess of \$1,000 of a commercial building located at N/S Beach Channel Drive E/O B. 116th (A & P Food Store) Rockaway Park, N. Y.; (2) on and after August 28, 1946 it carried on construction, repairs, additions and alterations, without authorization, and at a cost in excess of \$1,000 of a commercial building located at N/S Beach Channel Drive E/O B. 116th St. (A & P Food Store) Rockaway Park, N. Y. Beach Drive, Inc. admits the violations charged and has consented to the issuance of this order.

Wherefore, upon the agreement and consent of Beach Drive, Inc., the Regional Compliance Director and the Regional Attorney, and upon the approval

of the Compliance Commissioner, *It is hereby ordered*, That:

(a) Neither Beach Drive, Inc., its successors and assigns, nor any other person shall do any further construction on the premises located at N/S Beach Channel Drive E/O.B. 116th St. (A & P Food Store) Rockaway Park, N. Y., including the putting up, completing or altering of any of the structures located on said premises, unless hereafter specifically authorized in writing by the Civilian Production Administration.

(b) Beach Drive, Inc. shall refer to this order in any application or appeal which they may file with the Civilian Production Administration for priorities assistance or for authorization to carry on construction.

(c) Nothing contained in this order shall be deemed to relieve Beach Drive, Inc., its successors and assigns, from any restrictions, prohibition or provision contained in any other order or regulation of the Civilian Production Administration, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 26th day of March 1947.

CIVILIAN PRODUCTION  
ADMINISTRATION,  
By J. JOSEPH WHELAN,  
Recording Secretary.

[F. R. Doc. 47-2944; Filed, Mar. 26, 1947;  
11:17 a. m.]

[C-508]

JOSEPH M. TESTA ET AL.

#### CONSENT ORDER

Joseph M. Testa, Michele Testa and Michele Testa, Jr., are engaged in the restaurant business in Palm Beach, Florida. Subsequent to March 26, 1946, they, as owners, and H. Smith, George Yetter, and Berlin Griffin, a partnership engaged in business as building contractors, as contractors, began the construction of a two-story building, 50' x 100' and known as 221-223 Royal Poinciana Way, Palm Beach, Florida, the first floor of which for use as a restaurant and bar and the second story of smaller square foot area for use as living quarters. The estimated cost of said structure is in excess of the \$1,000 exemption provided in Veterans' Housing Program Order No. 1 and said construction was begun without the authorization of the Civilian Production Administration and in violation of said order.

Joseph M. Testa, Michele Testa and Michele Testa, Jr., owners, and H. Smith, George Yetter, and Berlin Griffin, contractors, admit the violation as charged and, although denying willfulness, do not care to contest this issue and have consented to the issuance of this order.

Wherefore, upon the agreement and consent of Joseph M. Testa, Michele Testa, and Michele Testa, Jr., owners, H. Smith, George Yetter, and Berlin Griffin, contractors, the Regional Compliance Manager and the Regional At-

torney, and upon the approval of the Compliance Commissioner, *It is hereby ordered*, That:

(a) Neither Joseph M. Testa, Michele Testa or Michele Testa, Jr., owners, nor H. Smith, George Yetter, and Berlin Griffin, contractors, their successors or assigns, nor any other person shall do any further construction on the premises known as 221-223 Royal Poinciana Way in Palm Beach, Florida, including the putting up, completing or altering of the structure located on said premises unless and until hereafter specifically authorized in writing by the Civilian Production Administration or its successor.

(b) Joseph M. Testa, Michele Testa and Michele Testa, Jr., owners, and H. Smith, George Yetter, and Berlin Griffin, contractors, shall refer to this order in any application or appeal which may be filed by them or any of them with the Civilian Production Administration or its successor, for priorities assistance or for authorization to begin or carry on construction.

(c) Nothing contained in this order shall be deemed to relieve Joseph M. Testa, Michele Testa or Michele Testa, Jr., owners, and H. Smith, George Yetter, and Berlin Griffin, contractors, their successors and assigns from any restriction, prohibition or provision contained in any other order or regulation of the Civilian Production Administration, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 26th day of March 1947.

CIVILIAN PRODUCTION  
ADMINISTRATION,  
By J. JOSEPH WHELAN,  
Recording Secretary.

[F. R. Doc. 47-2945; Filed, Mar. 26, 1947;  
11:17 a. m.]

## SECURITIES AND EXCHANGE COMMISSION

[File Nos. 54-120, 59-34]

### NEW ENGLAND GAS AND ELECTRIC ASSN.

#### MEMORANDUM FINDINGS, OPINION, AND ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 20th day of March 1947.

The Commission, by order dated February 11, 1947, approved the alternate plan for recapitalization of New England Gas and Electric Association ("New England") under section 11 (e) of the Public Utility Holding Company Act of 1935 and, among other things, reserved jurisdiction to pass upon certain necessary amendments with respect to the terms of the \$22,425,000 principal amount of 20-year Collateral Trust Sinking Fund Bonds, 77,625 cumulative convertible preferred shares and a maximum of 1,850,000 common shares to be issued by New England pursuant to the terms of the alternate plan.<sup>1</sup> Subsequently, by order

<sup>1</sup> New England Gas and Electric Association, — SEC— (1946), Holding Company Act Release No. 7181.

dated March 10, 1947, the United States District Court for the District of Massachusetts approved the alternate plan and vacated its prior order of July 17, 1946 approving an earlier plan for the reorganization of New England designated the "amended plan".

In our findings and opinion with respect to the alternate plan, we set forth certain basic terms of the new securities to be issued by New England and found that such securities satisfied the requirements of section 7 of the act. We were not at that time, however, in a position to permit the declaration under section 7 to become effective inasmuch as information concerning the definitive terms and conditions relating to the sale of the new securities had not yet been presented to us.

New England has now filed amendments to its application under section 11 (e) of the act concerning certain definitive terms and conditions relating to the sale of the new securities to be issued by it as discussed below.

The collateral trust bonds to be issued by New England will be sold in accordance with the competitive bidding requirements of Rule U-50. Pursuant to such requirements, New England will publicly invite proposals for the purchase of the new bonds. The invitation for bids for the bonds provides that the price to be paid to New England for the bonds shall not be less than 100% nor more than 102.75% of the principal amount thereof, plus accrued interest from April 1, 1947. The bidders will also designate the interest rate which shall be a multiple of  $\frac{1}{8}\%$ .

The convertible preferred shares to be issued by New England pursuant to the terms of the alternate plan, will be convertible into common shares of New England at a rate of seven common

<sup>2</sup> Previously, on June 24, 1946, the Commission had approved a plan for the reorganization of New England (amended plan) which provided for the issuance of \$22,500,000 of Collateral Trust Bonds as the sole senior securities to be outstanding and the issuance of 2,300,000 common shares as the only junior securities to be outstanding (New England Gas and Electric Association, — SEC— (1946), Holding Company Act Release No. 6729). The Amended Plan was approved by the United States District Court for the District of Massachusetts on July 17, 1946. Following the approval of the amended plan, New England found that the securities provided for in the plan could not be sold within the range of prices specified in that plan. It was, therefore, deemed desirable by New England to provide an alternate method of recapitalization which would have more assurance of success than the amended plan and, accordingly, New England sought and secured our approval of the alternate plan so that it might, at its election, subject to the entry of a court order enforcing such plan, proceed with the carrying out of the alternate plan or the amended plan. Subsequent to our application to the United States District Court for the District of Massachusetts to approve and enforce the alternate plan, New England elected to proceed with consummation of the alternate plan in lieu of the amended plan. Such election was not opposed by any participant in the proceeding, including the Commission, and the District Court, in approving the alternate plan, vacated, as stated above, its prior order of July 17, 1946 approving the amended plan.



shares for each convertible preferred share.<sup>3</sup> The Commission, by order dated March 11, 1947,<sup>4</sup> granted an exemption from the competitive bidding requirements of Rule U-50 with respect to the convertible preferred shares and such of the new common shares as are not subscribed for upon exercise of subscription rights.

Under the terms of the alternate plan, the holders of the presently outstanding \$5.50 preferred shares of New England will be entitled to receive for each share held, in addition to 8 shares of new common transferable rights to subscribe for 5 additional shares of new common (or a total of 479,235 shares) at \$9.00 per share. Further, to the extent that such rights are not exercised, holders of the \$5.50 preferred shares will receive non-transferable rights to subscribe pro-rata to a maximum of 20 additional shares of new common at \$9.00 per share for each \$5.50 preferred share held. The transferable rights and the non-transferable rights are exercisable on the date of the public offering of the collateral trust bonds and new convertible preferred shares and will expire fourteen days thereafter.

We have examined the terms and conditions of the proposed securities and the sale thereof and we observe no basis for adverse findings with respect to them.

It is therefore ordered, That, pursuant to the applicable provisions of said act, including sections 6 (a) and 7 thereof, the declaration with respect to the issue and sale of \$22,425,000 principal amount of 20-year Collateral Trust Sinking Fund Bonds, Series A, due 1967; 77,625 shares of cumulative convertible preferred shares; and a maximum of 1,850,000 common shares including rights for 479,235 common shares, be, and hereby is, permitted to become effective forthwith, subject to the terms and conditions set forth in said order dated February 11, 1947, and subject to the further condition that the proposed sale of the collateral trust bonds, cumulative preferred shares, and such of the 479,235 common shares as are not subscribed upon exercise of subscription rights, shall not be consummated until the results of the competitive bidding for the bonds and the negotiations for the convertible preferred and common shares have been made a matter of record in this proceeding and a further order shall have been entered by this Commission in the light of the record so completed, which order may contain such further terms and conditions as may then be deemed appropriate, jurisdiction being reserved with respect to the imposition thereof in connection with such proposed transactions.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 47-2841; Filed, Mar. 26, 1947;  
8:51 a. m.]

<sup>3</sup> The amended declaration of trust contains provisions for changes in the conversion rate which are designed to protect preferred stock shareholders against dilution of the conversion privilege.

<sup>4</sup> New England Gas and Electric Association, — S. E. C. — (1947), Holding Company Act Release No. 7277.

[File Nos. 59-17, 59-11, 54-25]

UNITED LIGHT AND POWER CO. ET AL.

#### ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa., on the 20th day of March 1947.

In the matter of The United Light and Power Company, The United Light and Railways Company, American Light & Traction Company, Continental Gas & Electric Corporation, United American Company, and Iowa-Nebraska Light and Power Company, Respondents, File No. 59-17. The United Light and Power Company and its subsidiary companies, Respondents, File No. 59-11. The United Light and Power Company, Applicant; File No. 54-25. Application No. 30.

The United Light and Railways Company ("Railways"), a registered holding company, and its subsidiary, American Light & Traction Company ("American Light") also a registered holding company, having filed a joint application pursuant to sections 9 and 10 of the Public Utility Holding Company Act of 1935 regarding the following transaction:

American Light, the present owner of approximately 20.3% of the common capital stock of The Detroit Edison Company ("Detroit Edison"), proposes to acquire 128,920 additional shares and one scrip certificate for one-half a share of such stock pursuant to the terms of a ten percent stock dividend which Detroit Edison proposes to declare and pay to the holders of its common capital stock, the only class of capital stock outstanding;

The application having been filed on March 3, 1947 and notice of filing having been duly given in the manner and form prescribed by Rule U-23 under the act and the Commission not having received a request for a hearing with respect thereto within the period specified in such notice or otherwise and the Commission not having ordered a hearing thereon;

The issuance of such stock dividend by Detroit Edison having been approved by the Commission on March 17, 1947 (Holding Company Act Release No. 7284),

The Commission having entered an order on August 5, 1941 (The United Light and Power Company, et al., 9 S. E. C. 833) directing Railways and American Light to dispose of their direct and indirect interest in Detroit Edison, and Railways and American Light having consented and agreed in the instant application that the additional shares of stock of Detroit Edison, if acquired by American Light, will be held subject to the provisions of section 11 of the act and the terms of the Commission's order of August 5, 1941, supra, to the same extent as though such additional shares had been owned by American Light at the date of the entry of such order and had been expressly referred to therein;

The Commission finding, under the circumstances of this application, including the above consent and agreement on the part of Railways and American Light, that the requirements of section 10 are satisfied and that no ad-

verse findings are necessary thereunder; and the Commission finding further that the requirements of other applicable sections of the act are met; and the Commission deeming it appropriate in the public interest and in the interest of investors and consumers to grant said application; and

The applicants having requested that the Commission take appropriate action to accelerate its order herein and that said order become effective forthwith, and the Commission deeming it appropriate to grant such request:

It is hereby ordered, effective forthwith, pursuant to Rule U-23 and the applicable provisions of the act, that the said application be, and the same hereby is, granted subject to the terms and conditions prescribed in Rule U-24 and further subject to the term and condition that such additional shares of stock of Detroit Edison, if acquired by American Light, will be held subject to the terms of our order of August 5, 1941 to the same extent as though such shares had been owned by American Light at the date of the entry of such order and had been expressly referred to therein.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 47-2340; Filed, Mar. 26, 1947;  
8:50 a. m.]

[File No. 70-1478]

INTERSTATE POWER CO. OF WISCONSIN AND  
INTERSTATE POWER CO.

#### NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 21st day of March A. D. 1947.

Notice is hereby given that an application and a declaration, and an amendment thereto, have been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by Interstate Power Company ("Interstate"), a registered holding company, and a subsidiary of Ogden Corporation, a registered holding company, and Interstate Power Company of Wisconsin ("Interstate of Wisconsin") a subsidiary of Interstate. The filings designate sections 6, 7, 9, 10 and 12 of the act and Rules U-23, U-43, and U-44 promulgated thereunder as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than April 2, 1947, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said application and declaration proposed to be controverted, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such application and declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations pro-

mulgated pursuant to said act, or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania.

All interested persons are referred to said application and declaration, as amended, which is on file in the office of this Commission, for a statement of the transactions therein proposed, which are summarized below:

Interstate of Wisconsin has outstanding \$800,000 principal amount of 6% first mortgage bonds, due 1957, and 5,274 shares of common stock, \$100 par value per share. All of said securities are owned by Interstate, and are pledged under the mortgage securing Interstate's 5% first mortgage bonds, due 1957. Interstate of Wisconsin proposes to issue to Interstate an additional 8,000 shares of said common stock in consideration of the surrender by Interstate to Interstate of Wisconsin of said \$800,000 principal

amount of bonds. Upon consummation of this transaction, said bonds will be cancelled.

It is requested that the Commission's order be issued herein as soon as possible, and become effective forthwith.

By the Commission.

[SEAL]

ORVAL L. DuBois,  
*Secretary.*

[F. R. Doc. 47-2842; Filed, Mar. 20, 1947;  
8:52 a. m.]